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PROCEEDINGS MISSISSIPPI STATE BAR

Thirty-Ninth Annual Meeting
June 1-2, 1944

BOOK REVIEW

REPORT OF THE ADVISORY COMMITTEE: FEDERAL RULES OF CRIMINAL PROCEDURE
J. Hollis Brown

NOTE

TORT LIABILITY FOR FAILURE TO ASSIST OTHERS IN PERIL

December, 1944

VOLUME XVI **NUMBER 4**

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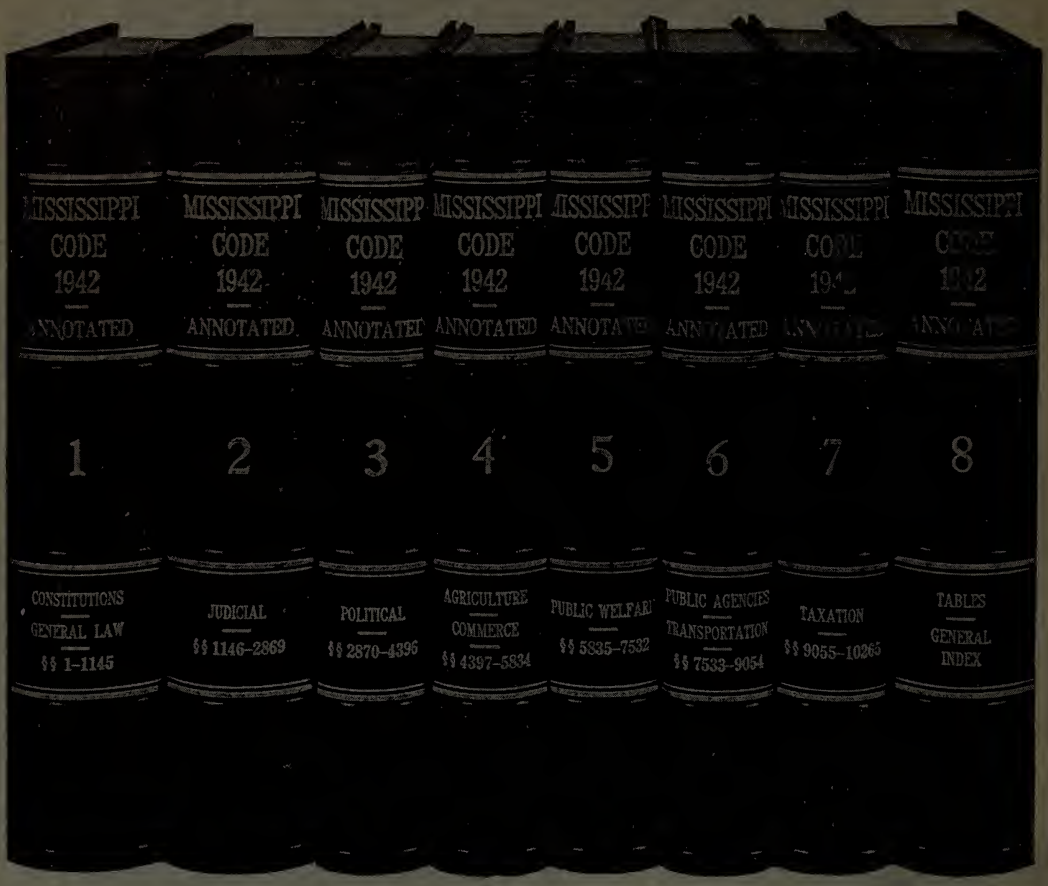

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TABLE OF CONTENTS

DIRECTORY TO THE PROCEEDINGS

ADDRESSES BY

President Ross R. Barnett 300
Archibald Cox 313
Joseph Henderson 337
John J. Parker 357

REPORTS

War Work Committee 310
Public Relations Committee 311
Committee on the Unauthorized Practice of Law 323
University of Mississippi Law School 323
Committee on Judicial Conferences 327
Committee on Bill of Rights 330
Committee on Americanism 331
Committee on the American Law Institute 333
Study Committee 335
General Legislative Committee 345
Finance Committee 348
Complaint Commissioner 349
American Bar Association Committee 351
Legislative Committee on Judges' Conferences 352
Committee on United States Court Reporter's Bill 353
Committee on Special Legislation 354

RESOLUTIONS

Resolution Opposing House Bill No. 2140, Revising System of Fixing Criminal Punishment in Federal District Courts 329
Resolution Commending President Barnett for his Service to the State Bar 372

BOOK REVIEW

Report of the Advisory Committee: Federal Rules of Criminal Procedure ..... *J. Hollis Brown* 376

NOTE

Tort Liability for Failure to Assist Others in Peril 379

DIRECTORY TO MISSISSIPPI STATE BAR 391

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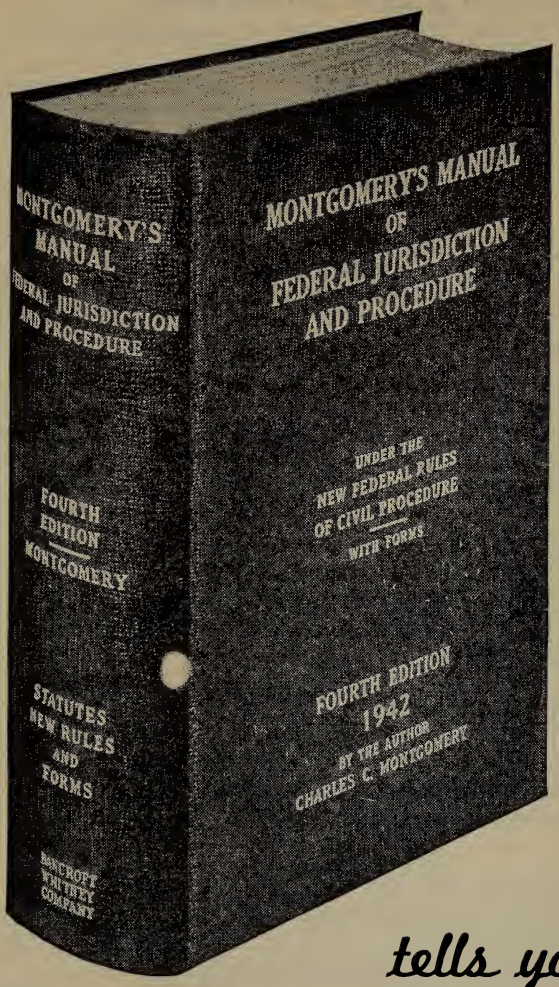
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ROSS R. BARNETT

Retiring President of Mississippi State Bar

PROCEEDINGS OF THE THIRTY-NINTH ANNUAL MEETING OF THE MISSISSIPPI STATE BAR

HELD IN THE CITY OF JACKSON, MISSISSIPPI, ON THE FIRST AND SECOND OF JUNE, 1944.

MORNING SESSION, JUNE 1, 1944

PRESIDENT ROSS R. BARNETT: Ladies and Gentlemen of the Mississippi State Bar, we will now please come to order.

(Dr. W. A. Hewitt of Jackson then gave the invocation, and Mayor Walter A. Scott of Jackson welcomed the members of the Bar to the capital city. President Barnett then called on the Honorable William Harold Cox, president of the Hinds County Bar Association.)

MR. COX: The Hinds County Bar Association is honored by your presence here today. We extend to each of you a cordial, warm welcome to our midst, and hope that your stay here will be both enjoyable and a profitable one. We are mindful of the fact that any meeting of the Mississippi State Bar brings with it the leaders of every worthwhile community from the four corners of this great state.

It fell to the lot of the Hinds County Bar Association to serve as host for the first convention of this association after the enactment of the Unified Bar Act. Since that time a custom has been observed by the Association to meet at a different place each year. It is hoped that in these days when transportation problems present such a difficult problem that this custom may be abandoned for the present in the interest of seeking some place which would be most accessible to the greatest number of lawyers with the least possible difficulty. Your capital city is centrally located, and, as you know, has facilities to take the proper care of a meeting of the State Bar Association. We sincerely trust that your stay here during this convention will be so enjoyable that it may be the honor of the Hinds County Bar Association to serve as host again next year.

(President Barnett then presented Judge D. M. Russell of Gulfport.)

JUDGE RUSSELL: It is a very distinct honor that I have today to respond to these hearty welcome greetings, on the part of the Bar. Sometimes words fail us to express the sentiments that are inspired by messages like these. We are conscious that sentiments of the finer sort are in-

spired and arise on occasions like this, when we have such hearty greetings in the midst of such a fine host city.

As we mix and mingle with the members of the Hinds County Bar and the good people of this city, we shall make them know the heartiness with which we do accept and with which we do appreciate the welcome which they have extended to us this morning.

May I say for the lawyers, that I believe that the lawyers in the State of Mississippi are now and today playing a worthy part in our country's greatest crisis. I believe that there is a larger proportion of lawyers than of any other groups rendering services and making real sacrifices; they are the largest group of all of our citizenship, and I speak proportionately. And they have done it many times, and many of them without any compensation at all, or at a compensation greatly reduced below their earning capacity in their profession.

This great government of yours and mine is today concerning itself with making provisions and preparations for those of every group of our citizenship when they shall have returned home, to see that they shall have their places of employment back as they did before they went away to war. But in all of that fine profession, not a voice has been heard in favor of those young lawyers, how they shall get back into the places they left in their profession. I do not know what we can do about it, but I am sure the lawyers are going to be concerned about it until they shall come back. We shall have to keep that in mind, and we shall hope that they may come back. Some of them will pay the supreme sacrifice over there. Let's hope, that so far as we are concerned, those who have and will pay the supreme sacrifice, shall not have died in vain, and for those who live and return home, that they shall not have lived in vain. (Applause).

(The President's address then followed.)

PRESIDENT BARNETT: Approximately twelve months ago you graciously bestowed upon me the distinct honor and great trust of the Presidency of the Mississippi State Bar. Mindful of the great responsibilities of this office, I have endeavored to faithfully discharge the important dutes entrusted to me by the members of the Bar of our great State. During the past year I have been privileged to learn and realize, as never before, the fine character and patriotic spirit of the rank and file of the members of our State Bar. It is beyond my ability to adequately express to you my deep feeling of appreciation and respect for the fine work and cooperation of the officers of the State Bar, and mem-

bers of the various committees, and many other members of the Bar who have given so generously of their time and effort in the activities of the State Bar during the past year. In conformity with my duty as prescribed by the Laws of 1932, I shall briefly report some of these activities.

The first meeting of the Bar Commissioners was held on June 24, in the House of Representatives in the New Capitol. At this meeting the Bar Commissioners elected Miss Lottie Kuykendall Secretary-Treasurer of the State Bar at a salary of $50.00 per month, and it is my pleasant duty to report to you that Miss Kuykendall has served in that capacity with characteristic efficiency and ability. A Study Committee composed of approximately 20 outstanding lawyers of the State was selected at this meeting. This Committee, under the able leadership of Hon. J. Knox Huff of Forest, Chairman, has served faithfully, unselfishly and very efficiently. Also, at this meeting a resolution was adopted to the effect that the Mississippi State Bar should put forth every effort to assist its members who are serving in the Armed Forces of our Country to become re-established in their profession upon their return to civilian life. Numerous other committees were selected at this meeting and they have functioned admirably.

The second meeting of the Bar Commissioners was held September 29, 1943. At this meeting the Hon. Phil Stone was elected to succeed the Hon. Hindman Doxey, who tendered his resignation as Commissioner for the Third Judicial District on entering the Armed Forces of the United States. This meeting was held for the purpose of hearing complaints against certain members of the State Bar. The hearing was conducted by Hon. Hugh V. Wall, of Brookhaven, Complaint Commissioner, who has discharged the duties entrusted to him faithfully and efficiently. The Bar Commissioners voted to institute disbarment proceedings against two members of the State Bar. Both suits have been filed and the license of one lawyer has been revoked. The other case has been set for trial on June 24, 1944. Other business matters were transacted at this meeting. In this connection, I think you should be informed that Hon. W. E. Morse, of Jackson, and Hon. R. W. Thompson, Jr., of Gulfport, represented the Mississippi State Bar in one disbarment proceeding. Hon. J. K. Travis of Hattiesburg and Hon. James Simrall of Hattiesburg are representing the State Bar in a second disbarment proceeding, and Hon. M. M. Roberts of Hattiesburg and Hon. Hugh V. Wall of Brookhaven, are representing the State Bar in a third disbarment proceeding. I want to assure these gentlemen that the Bar Association is indeed grateful to them for partic-

ipating in this distasteful and thankless job, but it is necessary for the Bar Association to be represented in these proceedings in order that we may maintain the dignity and uphold the ethics of our profession.

Another meeting of the Bar Commissioners was held January 7, 1944. At this meeting Hon. Ed. Brewer of the Clarksdale Bar was elected to succeed Hon. Partee L. Denton of Marks, who resigned as Bar Commissioner from the Eleventh Judicial District to enter the Armed Forces of the United States, and Hon. Vernon Rowe of the Winona Bar was elected to succeed Hon. Jack Carlisle of Ackerman, who resigned as Bar Commissioner from the Fifth Judicial District to enter the Armed Forces of our country. At this meeting it was unanimously voted by the Bar Commissioners that the next annual convention of the Mississippi State Bar should be held in Jackson on June 1st and 2nd, and that Honorable Joseph Henderson of Philadelphia, Pennsylvania, President of the American Bar Association, and Hon. John J. Parker, of Charlotte, North Carolina, Senior Judge of the United States Circuit Court of Appeals for the Fourth Circuit, and Chairman of the American Bar Association's Committee on improving the administration of justice, be invited to make the principal addresses at the Convention.

Two conferences of Judges of the Supreme, Circuit, Chancery and County Courts have been held at the New Capitol; the first conference was held on July 23rd and the other on December 28th. Both were well attended by many judges and outstanding lawyers. The main purpose of these conferences was to discuss proposed changes in our procedural laws in civil cases and very able talks were made by several members of the Bench and Bar. At the latter conference a resolution was adopted recommending that certain changes be made in our procedural laws in civil suits.

District meetings were held at McComb, Hattiesburg, Vicksburg, Indianola, Oxford, Tupelo, Starkville, Philadelphia, Meridian and Jackson, and at all of these meetings the lawyers showed much interest in the question as to whether or not certain changes should be made in our procedural laws in civil cases. Several of the District Bar Associations adopted resolutions recommending that the Legislature enact certain statutes to expedite the disposition of pleadings, trials and procedure in civil cases, and especially in Circuit Courts. The Study Committee has met many times and has been untiring in its efforts in writing proposed changes in our procedural laws. This committee drafted proposed changes and printed copies were mailed to each member of the bench

and bar, and many interesting letters have been received. When the Legislature convened, the Study Committee of the State Bar with the aid of some of the lawyers who were members of the House and Senate Judiciary Committees, modified the first draft in an effort to meet objections raised by certain lawyers. This modified draft was introduced in both Houses of the Legislature, and was known as Senate Bill 111 and House Bill 243, and copies of the bills were mailed to all members of the Bar. The Study Committee met several times with the House and Senate Judiciary Committees, and the Senate Judiciary Committee requested the Study Committee to rewrite the draft into seven separate bills. A sub-committee of the Study Committee spent approximately four days writing the bills requested by the Senate Judiciary Committee. Six of these bills were unanimously approved by the Senate Judiciary Committee and were passed by the Senate with only one dissenting vote, this Senator not being a member of the legal profession. These six bills were also approved by the House Judiciary Committee but were not reached on the calendar of the House until 6:25 P. M. on the day of adjournment, when many members of the House of Representatives had their suitcases packed and naturally were anxious to return to their homes, and a motion to postpone consideration of the bills was made and carried. A copy of these six bills, subject to certain amendments suggested by the House and Senate Judiciary Committees, was mailed to each member of the Bar.

The State Bar offered a one hundred-dollar Series E Government Bond to the high school senior of any accredited high school in the State for writing the best essay on the subject, "What Can the High School Students Do to Help Win The War?" A fifty-dollar bond and a twenty-five dollar bond were offered for second and third places in the contest. There has been considerable competition in this contest and much interest was aroused, which we believe will be helpful in many ways. The grading of the essays was under the supervision of the State Superintendent of Education. The winner of first place has been announced to be Miss Pat Bailey of Tylertown High School. Miss Nell Robertson of Jackson Central High School won second place; and Miss Elouise Moore of Lexington High School won third place. We congratulate these winners and thank all who took an interest in this contest.

A series of tax clinics was planned for the months of April and May, but the tax experts suggested that it would be better to postpone these until the latter part of the year when the new tax laws can be studied. We are grateful to those tax experts for their willingness to

cooperate in these tax clinics, and they should be very beneficial to the members of the Bar.

The Annual Convention of the American Bar Association held in Chicago last August was well attended by members of the Mississippi State Bar, and several members of the State Bar attended a meeting of a Section of the American Bar Association held in Birmingham last November. A Committee of the Mississippi State Bar attended the Judicial Conference of Federal Judges of the Fifth Circuit Court of Appeals, held in New Orleans May 26 and 27, 1944.

I have reported to you some of the chief activities of the Bar during the past year.

As we of the Mississippi State Bar assemble here in annual convention, foremost in our minds is the realization that our country is engaged in the greatest and most horrible struggle in the history of man, a struggle which will determine whether democracy or despotism shall control and operate the government of the peoples of the earth. It seems that we are now approaching the climax of this great struggle. Many of you have said farewell to sons, brothers and loved ones, some of whom have already laid on the altar of Liberty "their last full measure of devotion." Millions of the finest men and women of our nation are braving the dangers of battle on land, on and under the sea and in the air, fortified, however, with the firm conviction that what is worth living for is certainly worth dying for. The land of the free is the home of the brave. All honor is due to those who have gone to the front to fight our battles. They are fighting bravely and acquitting themselves with distinction and honor. But we all should remember that the outcome of this grim and horrible struggle depends as much on the lines of supply as on the lines of battle, and it also depends as much on our industry and loyalty at home as on the bravery and grim determination of our Armed Forces.

Just what is it that we are fighting for? Each member of the Bar may have his individual answer, but when we sum up all the answers the conclusion is reached in plain and unmistakable language that we are fighting for the liberties and institutions which are our heritage from the past and which make possible our American way of life. It has been said that: "We live in the present, we dream of the future, but we learn eternal truths from the past." Andrew Jackson once said that, "Providence has chosen you as the guardians of freedom to preserve it for the benefit of the human race." So, "we are the inheritors of the past; and trustees of the future." No nation was ever blessed with a

greater heritage from the past than ours, and no nation ever gave promise of a greater destiny than ours. We who are gathered here today are members of a noble and a much honored profession. American lawyers in the colonial period played no small part in giving utterance to those principles and ideals of right and justice which flowered in the Declaration of Independence and came to fruition in the Constitution of the United States of America. Twenty-five of the fifty-six signers of the Declaration of Independence were lawyers and the words that go to make up that immortal document are the transcribed words of American lawyers. Of the fifty-five men who participated in promulgating and framing the Constitution of the United States, thirty-two were lawyers. Approximately two-thirds of the Presidents of the United States have been lawyers, and forty-four of the forty-seven Secretaries of State of the United States have been lawyers. A large majority of the Senators and Representatives in Congress have been lawyers, and, of course, only lawyers can qualify for and serve in the Judiciary Department of our Government.

As lawyers, we have a right to be proud of the achievements of the illustrious members of our great and honored profession, both in the founding of our Government and in the administration of its affairs during the 155 years of its existence. Lawyers have ever been the leaders of thought in the governmental affairs of our nation. They have been in the driver's seat in steering the Government of this great nation. In all of our glorious history as a nation the legal profession has been the most honored and respected profession, save only the ministry, and I know that we must be very watchful, cautious and careful to see to it that the dignity with which our profession has been clothed and the respect, the confidence and admiration the plain people have always had for us in the past shall not be lost or diminished by a lowering of the standards of our profession in the administration of justice in this present age. Let us come again to a realization of the opportunities and obligations that are ours as lawyers. Let's keep abreast of the times.

The Constitution of the United States is the greatest anchor that ever moored a ship of state. The aims and purposes in its establishment were simply stated in the Preamble:

1. To form a more perfect Union
2. Establish Justice
3. Insure domestic Tranquility

4. Provide for the Common Defence

5. Promote the General Welfare

6. Secure the Blessings of Liberty to ourselves and our Posterity.

The Constitution was written in 1787 and adopted in 1789. As a nation we are very young. Our growth and development as a people has been phenomenal. Let us ask ourselves a few simple questions. Are we as a nation destined to follow in the wake of the nations of the past? Shall future recorded history mark the successive stages of the rise and fall of our great country as it has of other great nations of the past? Are we making real progress in the realization of the aims and purposes stated by the founders of our government? Abraham Lincoln said in his memorable Gettysburg address: "Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated can long endure." Our nation survived that test, but at great cost, but other tests have come throughout the years and now, as never before, during the great struggle in which we are engaged, we realize that the forming of a more perfect union is greatly to be desired, and that it is an aim that is far from being an accomplished fact.

The next reason stated in the Preamble to the Constitution as being one of the six purposes in ordaining and establishing the Constitution is to "establish justice." Alexander Hamilton once said that: "Justice is the end of government. It is the end of civil society. It has ever been, and ever will be pursued until it is obtained, or until liberty be lost in the pursuit." The American people, in their continuing effort to "establish justice," hold to the conviction that the state is created by and exists for the benefit of the citizens, as opposed to the theory that the citizen exists for the glory and power of the state or government. We are constantly called upon to defend our concept of ordered liberty under existing laws from the attacks of those who hold to the opposing theory of despotic domination.

As opposed to mass administration of justice, we believe in a personal administration of justice; one that is close to home, where the wronged can be protected from the wrongdoer. No better method has ever been devised in the administration of justice than to summon a jury, let them hear the facts and a statement of the law applicable to the case, and then, after mature consideration, return a verdict. This method is far from perfect, but experience has proved that social protection is accomplished in a far more satisfactory manner under that

system than by a central administration. Injustices are more readily corrected in decentralized rather than in centralized forms of government. Lawyers, more than any other group, view with alarm the tendencies of our own government toward centralization of authority. In times of extreme peril it becomes necessary to surrender local authority to the central government for the common protection of all. But we must make sure that when common peril no longer exists, excess powers of centralized authority shall also cease to exist. We must be vigilant if we would prevent our government from becoming a government of men rather than of laws.

Our founding fathers wisely provided a finely balanced government, wherein laws are to be enacted through legislative authority, interpreted and adjusted by judicial authority, and enforced by the administration of the executive department.

It is our duty as liberty loving citizens to see to it that each branch of our government shall rise to the full stature intended, but that no one of the three shall exceed the others. Many have viewed with alarm the loss of prestige of our courts. In time of war it is but natural for the executive branch of the Government to assume the leading role. It is granted unusual and extraordinary powers in order to expedite and speed up all operations toward a successful conclusion of the War. The Legislative branch of the Government holds the purse strings and with a little stiffening of the backbone can be trusted to maintain its proper status and influence in the balance of government. The judicial branch of the Government has no army under its command, yet it cannot be denied that some of the greatest victories for human freedom and liberty have been won through the courts of our country.

It has been said:

> "The strength of the Courts of law has ever been the greatest security which can be offered to personal independence; but this is more especially the case in democratic countries like ours; private rights and interests are in constant danger, if the judiciary power does not grow more extensive and stronger to keep pace with the growing equality of conditions."

The Supreme Court of the United States is the champion and protector of the Constitution, the supreme law of our land and the charter of our liberties. It is of the utmost importance that we revive and maintain our judicial system, that its influence and prestige be restored

to its former place of dignity and authority. What will it profit us to win the battle of the nations and lose the fight for proper administration of justice at home? It is our duty as lawyers and officers of the courts to get our judicial house in proper order and take our rightful place in the forefront for the better, speedier and more economical administration of justice.

In the complexities of mass administration through commissions in the nation's capital and elsewhere, individual liberty is often lost sight of and the lawyer who is called upon to advise his perplexed client, suffers a loss of influence because he is unable to explain to the perplexed citizens the why and wherefore of the various orders and regulations. I think we may count on the lawyers to lead the fight to clear from the wheels of Justice the red tape and friction which today slow its progress and to streamline the structure of our courts and lubricate the machinery of justice with the smooth oil of prompt efficiency which will promote justice and win the respect of our citizenry. Let us learn anew the ideal expressed in Magna Carta:

"To no one will we sell, to no one will we deny, or delay, right or justice."

Waste and delay in the administration of justice are public enemies and should be attacked wherever found. Already some steps have been taken in the right direction. The new rules of Civil Procedure, which went into effect on September 1, 1938, have had a salutary effect. The law providing for an administrative office of the Federal Judicial system under the direction of the Supreme Court of the United States is a great step toward efficiency in the administration of justice. Many are thinking along these lines in their search for methods of streamlining, speeding up and improving our state tribunals of justice.

We often hear laymen complain about the delay in our state courts in the administration of justice, and we cannot deny there is reason for complaint. We are living in an age of fast scientific development and production has been speeded up to an efficiency heretofore undreamed of. It is a well known fact that the business world is resorting to arbitration and other short-cut methods of settlement rather than resort to the courts where delay often causes great financial losses and, where, though justice may be done, victory for the right may be turned into a Pyrrhic victory by the delay and expense incurred. Such delays are not caused by any inherent weakness in our substantive law, nor can they be properly charged to inability on the part of judges and attorneys. They must be attributed to our procedural laws, which were

enacted in the olden days of slow travel and production and slow methods of communication.

Our procedural laws have not been reformed to keep apace with the fast scientific development of the present age. In the adoption of our Constitution and in the development of our substantive law based thereon, our nation has advanced to the leadership of all nations in securing to its citizens the blessings of liberty and providing the zest of living which comes to people blest with unlimited opportunities in a land of free enterprise. We have been careful to protect the individual citizen by securing to him by the enactment of laws his fundamental rights of life, liberty and the pursuit of happiness. There are many today who believe that the greatest service that could be rendered in this day and age for good government and the effectual administration of justice would be a common sense revision and simplification of our procedural laws for the purpose of providing simple, speedy and effective administration of justice.

This is a problem that should challenge every member of the Bar to immediate and to most intensive study. In meeting this challenge, and I believe we will meet it effectively in the near future, we shall make great strides in restoring faith and confidence in our courts as the arbiters of right and justice. Prompt protection of the rights of individual citizens should form the base of our security. A great lawyer once said: "The government always wins when the citizen gets Justice; it always loses when he is wronged."

American lawyers have ever been the champions of freedom and justice. From the days of Alexander Hamilton and his defense of free speech, in the memorable case of Peter Zenger, down to the present day, lawyers have been in the front ranks in the fight for good government. "Our pride in, and respect for the past; our confidence in the power of the present; our hopes for the future are embraced in the strength and permanent stability of our institutions of government, and in the settled determination of our people to preserve what we have won and advance further towards the aim: 'establish Justice.'" Succeed in that and we shall have taken the greatest step toward insuring domestic Tranquility, providing for the common Defence, promoting the general Welfare and securing the Blessings of Liberty to ourselves and our posterity.

And after the clouds of this World War have rolled away and the sunshine of Peace has blessed the earth again, the lawyer should play a dominant role around the peace table and insure to all mankind,

throughout the future that their ideal shall be—To execute justice and maintain the truth. (Applause).

(President Barnett presented Commander de la Hussaye of New Orleans, who commended Mr. Forrest G. Cooper and the War Work Committee of the State Bar for their fine work in the legal assistance program of the Navy. Commander de la Hussaye then presented to Mr. Cooper, who accepted on behalf of the State Bar, a certificate of award signed by Secretary Forrestal and Admiral Gatch, Naval Judge Advocate General.

Lieutenant Colonel Joe L. Berman of Atlanta was introduced by President Barnett, and he presented a certificate of award to the State Bar on behalf of the War Department, signed by Secretary Stimson and Major General Cramer, Judge Advocate General.)

Mr. Forrest G. Cooper: I believe I now have an idea of how an old maid must feel when she has received her first proposal. I am very grateful indeed for this recognition by the Army and the Navy, and I would certainly be remiss if I did not say so on behalf of the 218 lawyers of Mississippi, as well as every other lawyer in our state who has gladly, willingly, and at any sacrifice aided the hundreds of thousands of the men of our armed forces, not only who have been inducted into the service from Mississippi, but who have been sent to Mississippi for their training, and not only these, but their wives and dependents.

Now for four years we of the Mississippi State Bar have sought within our sphere to aid these men and their families in order that their minds may be a little freer from worries and troubles back at home, in order that they might concentrate more upon the war effort. We who have not been privileged to wear the uniform again, are anxious to do our little bit, though sometimes it has taken up time when we would like to have been engaged in recreation or something else. It is with a feeling of satisfaction, I know, that I speak on behalf of your profession of the men from every county in Mississippi, men and women who have so willingly given of their time, and who will continue to give of their time.

I would like to take just a moment to say that there is a machinery by which we work. There is situated, at every concentration of troops or of the navy, a legal assistance officer. Commander de la Hussaye here from New Orleans is in command of all of the legal work. He is the District Legal Officer of the Eighth District, not only of the legal assistance officers of those eight states surrounding New Orleans under

his jurisdiction, but all of the other legal work within that area is his; and Colonel Berman from Atlanta, from the Fourth Service Command, has charge of the work of the legal assistance officers in the Fourth Service Command, comprising an area somewhat comparable to the area of the Naval District. These legal assistance officers are the contact men. When a soldier is bothered by something back at home, by some legal problem, by the need of executing a will or a power of attorney or the need of executing an oil lease, or the need of any one of hundreds of things that come up that may trouble him, some domestic relations, probably he goes to his legal assistance officer and states his problem. If it is a problem where there is a need of a Mississippi lawyer to advise with him, that problem comes to my desk from the legal assistance officer or from the soldier himself. From my office it goes to the county where the soldier comes from. It goes to some member of our committee from that particular county, and the problem of actual assistance is not done by me, nor is it done by the legal assistance officers. We are contacted only. It then goes to the lawyer, who then helps the soldier to rid himself of worries that may interfere with his efficiency as a soldier.

I want now in closing to say to these gentlemen who have thus honored us, speaking as they do for our men who have the responsibility of winning the war, that we are with those boys, wherever they are today, in mind, in spirit, and in heart, and whatever we can do now or we can do in the future to aid them within our capacity, we stand ready to carry on as best we can. I thank you. (Applause).

PRESIDENT BARNETT: May I say this, that Honorable Forrest G. Cooper has really rendered an unselfish and patriotic service as Chairman of the War Work Committee. I expect that some days Forrest G. Cooper gets twenty-five letters from the wives of soldiers and others, and he has been untiring in his efforts in discharging the important duties entrusted to him as Chairman of the War Work Committee.

(President Barnett introduced Mr. Robert Powell of Canton, who turned the floor over to Mrs. Bettie B. Tucker of Jackson, to make the report of the Public Relations Committee.)

MRS. BETTIE B. TUCKER: REPORT OF THE PUBLIC RELATIONS COMMITTEE OF THE MISSISSIPPI STATE BAR

Acting on behalf of the Public Relations Committee, the Honorable Ross R. Barnett, president, conducted an essay contest for members of the senior class in all four-year accredited high schools in the state,

this contest being sponsored by the Mississippi State Bar Association. Letters announcing this contest, the rules governing same and the awards offered were sent to more than six hundred high schools. The purpose of this contest, as stated in the letter, was "to give the students much valuable training and information" and to "stimulate interest in the war effort throughout the state." The subject, designed to achieve this objective, was, "What Mississippi High School Students Can Do to Help Win the War."

(See Page 303 for winners of the contest.)

The Public Relations Committee is of the opinion that this contest has not only accomplished the objective stated above but has achieved much worthwhile publicity for the Mississippi State Bar. The contest was widely publicized by city and county newspapers throughout the state. Many news articles and favorable editorial comments in regard thereto were sent to our president, indicating that the contest had aroused general interest in the communities.

In addition to the above project which has been so successfully concluded, your committee is pleased to report that the act to establish uniform rules of pleading, practice and procedure in civil actions in the state courts, as drafted by the Study Committee of the State Bar, was presented to the Mississippi Federation of Business and Professional Womens Clubs by Miss Louise Melton, member of the bar and chairman of the Legislation Committee of the Business and Professional Womens Clubs. The act was endorsed by this organization of women, placed on their active legislation program and given publicity in their clubs throughout the state.

The Public Relations Committee recommends:

1. That the essay contest on a subject related to current aspects of good citizenship and patriotism be continued.

2. That in all cases in which the State Bar is seeking to promote a measure which we believe is desirable for the public welfare an organized effort be made to disseminate information to the various organizations of business and professional people and to the Coordinating Council of Women's Organizations for the purpose of enlisting their cooperation.

Respectfully submitted,
Robert H. Powell, Chairman

(President Barnett presented the Honorable Archibald Cox, Associate Solicitor of the United States Department of Labor.)

MR. ARCHIBALD COX: Mr. President and members of the Mississippi State Bar, it is a very great pleasure for me to have this opportunity to visit with you, and to discuss with you the administration of the Federal Fair Labor Standards Act. I value it not only for your courtesy and hospitality, but also for the opportunity to gain a closer acquaintanceship with the problems which the Fair Labor Standards Act and our administration of it create for you and for your clients.

The Fair Labor Standards Act has now been in effect for approximately six years. Its purposes are declared in Section 2, and I think it is worth emphasizing them literally. The Congress declared in that section that the existence in industries engaged in commerce or in the production of goods for commerce of labor conditions detrimental to the maintenance of the maximum standard of living necessary to the health, efficiency and general well-being of workers causes commerce and the channels of commerce to be used to spread the burden of such labor conditions among the several states, and that the burdening of commerce in the free flow of goods constitutes an unfair method of competition. And that the law, to properly emphasize the importance of that purpose, tells of labor disputes and interference with the orderly and fair marketing of goods.

The act then goes on and seeks to eliminate the existence of such conditions by establishing for workers engaged in commerce or in the production of goods for commerce, a minimum wage rate of from thirty to forty cents an hour, and a maximum work week of forty hours, after which they are entitled to time and one-half of the regular rate of pay.

There are three aspects in these purposes which I desire particularly to emphasize. The first great purpose of the act is, of course, to protect the worker against economic exploitation and to assure him a fair minimum wage standard. This protection becomes particularly important, not for the great organized unions, but for the unorganized laborer, whose bargaining power is nil. Today the lowest lawful rate is for most industries forty cents an hour. In some it is still thirty cents, but even those will be raised in a very short period of time. I think you will all agree that under present wartime conditions these minima are very modest indeed, but even under war conditions, in a surprising number of cases we find that the workers are not being paid the minimum due them, giving them $12.00 to $16.00 for a week's work.

The second purpose of the act which I mentioned before, and I desire to particularly emphasize, is to protect the employer who pays his employees a decent minimum wage for reasonable hours, against unfair competition of the employer who cuts his cost by reducing wages below a fair level of pay or by increasing his hours above a reasonable maximum. It is the purpose of the Fair Labor Standards Act to make this cutting into the wage structure impossible, to destroy such unfair competition, and thus to protect those employers who are paying a decent wage. Not only is this the chief purpose of the act, but it is also a dominant force in the act's administration. Now, it is fair to say that if there is any policy which above all motivates us in enforcing it, it is the desire to guarantee to every employer that his voluntary compliance with the act will not result in business losses because others are left free to violate it with impunity. The same desire to keep and maintain a competitive equality influences very largely the interpretation which the administrator puts upon the act and seeks to carry out in the courts.

The third aspect of the purpose of the act which I desire to emphasize is the aim to benefit the entire communities through increasing the purchasing power of the workers, by increasing the pay to a level that will aid the merchant and ultimately the manufacturer by enabling the workers to buy more goods. In the years before the war, that is exactly what came to pass. Although there had been some in the south and in other parts of the country that made dire predictions that the Fair Labor Standards Act would ruin industry, I think you will now find a pretty general agreement that in community after community, long before these abnormal war time conditions arose, it raised the purchasing power of the people to an extent that it benefited the merchants and manufacturers in whole areas.

We recognize, of course, in this period of high wages, the modest minima fixed by the act are less important than they were before the war, and less important than they are likely to be again, for when the war time conditions end, the Fair Labor Standards Act will operate to take the now recognized fair wage structure and to insure returning veterans an opportunity to work for fair wages and live under fair conditions.

The substantive provisions of the act which give effect to its purposes are concentrated in two sections, Sections 6 and 7. Section 6 establishes the statutory minimum wage. Before the year 1939 it was twenty-five cents an hour. Now it is thirty cents, and after October

1945 it will be universally forty cents an hour, the minimum wage prescribed by act of Congress.

Section 8 of the act, however, directs the administrator of the Wages and Hours Division to raise the level more quickly to forty cents wherever it can be done without substantially curtailing production, and he has done so now in almost every industry, and additional wage orders are pending and will shortly be made effective in the others. So that for all practical purposes, there is now a universal forty cents minimum wage.

The other section, the heart of the act, Section 7, is the overtime provision. It provides that no employer may employ any person actively engaged in commerce or in the production of goods for commerce, for more than forty hours a week, without paying time and one-half his regular rate of pay. It is impossible for me now to go into any great length on the scope of these provisions, but I wish to emphasize that they apply to every employee regardless of the employer's business, who is engaged in commerce, or in the production of goods for commerce. The courts, and we thing rightly so, have given those words a very broad scope. Not long ago the supreme court said that the phrase applied in their opinion to the broadest reaches of interstate commerce. The phrase, for example, applies, as I remarked a moment ago, not only to persons employed in transporting goods among the states or in maintaining facilities of transportation, but applies to those employers or business men whose businesses are otherwise local, but who are engaged in ordering goods from outside the state, or in paying for them, or in unloading them, and checking them after they are received. The phrase "engage in the production of goods for commerce," is equally as broad as a result of the expressed definition of the words, "production of goods," which Congress inserted in the act.

To compel compliance with the act, Congress has provided three remedies. Two are given to the federal government. The first is the right to maintain a criminal prosecution for wilful violations of the act.

The second is the right to go into a court of equity and seek an injunction directing compliance with the act in the future.

The third remedy which the act provides, and it will be interesting to you as practitioners, whether you represent employees or employers, is the right that the act gives to any employee who has not been paid in accordance with its standards, to maintain an action in the

federal courts or in the state courts to recover not only the wages that were due him and not paid, but also an equal amount as liquidated damages, and reasonable attorneys' fees. This provision, although of little importance when the act was first passed, in a practical manner has come into greater and greater use, and is now extremely important, not only because of the law that is made in employees' suits, of which the case of *Walton v. Southern Package Corporation,* decided by your own Supreme Court is an example, but also because it enables countless employees to recover wages unlawfully withheld.

In the administrative regulation of the act, most of the work during the early years was in the preparation and promulgation of wage orders, raising the minimum wage from thirty cents an hour to forty cents. As I have said, that work is now for the most part completed, but there remain other important fields in which the administrator has power to issue administrative regulations having an important bearing upon the cost of operation. One of these is defined as the administrative professional employees, all of whom are exempt provided they meet the qualifications set up by its definition.

Another important field for administrative regulation is his power to define the term "area of production," which in a state like Mississippi has great importance. I wish to discuss the issuance of that definition, the manner in which it was done, and the considerations that were taken into account, in order to illustrate for you the extent to which the administrator and the Wage and Hour Division in issuing their regulations attempt to take into account, without sacrificing any of the purposes of the act, the needs of business men and the economic forces in which the regulation must operate. The exemption, to which I will refer in more detail, exempts from all the provisions of the act any employee employed within the area of production, as defined by the administrator engaged in handling, packing, storing, ginning, processing, and doing other things to agricultural products or commodities. You will observe, as far as the words of the statute are concerned, the administrator is free to make an exemption and then issue whatever definition he deems appropriate. There is no requirement for a hearing or anything of the kind. When the act first became effective it was necessary, because of the shortage of time to follow that course, but immediately thereafter, within two months, I believe, the administrator set down dates for hearings at which all persons affected, both employers' and employees' organizations might come and present to him evidence of the economic and competitive business which must necessarily affect his definition, if it is to be successful.

These hearings were held. Over two hundred representatives, nearly all of them speaking for businesses subject to the act, appeared, and certain other representatives of employees' organizations. Hearings were held, not only in Washington, but also special hearings in various parts of the county, and in June, after 5,000 pages of testimony had been taken, and an enormous pile of exhibits and briefs had been received, the definition was issued. It brought forth protests, and immediately the matter was set down for additional hearing. Regional hearings were held, and further hearings were held in Washington, and finally after an administrative definition had been promulgated, the administrator himself held still further hearings. At all of these hearings again the people affected were given an opportunity to come forward and present such evidence as they thought relevant. Finally the definition was issued. It is now before the Supreme Court, and presumably will be decided next Monday, whether as a matter of law the definition is valid, or whether we went beyond the provisions of the act.

Whether the definition was proper or not, is not the point which I desire to emphasize now. The point I desire to emphasize is the tremendous effort that was made to take into account the effect of the definition upon competitive conditions and operating conditions in the canning industry, the packing industry, and the other industries that will be affected by it. So far as possible, everything was done to prevent the creation of any economic dislocation, and the same spirit has motivated the issuance of other regulations.

Let me give you one additional illustration under the Child Labor Provisions of the act, of which I will speak in more detail in a minute. The chief of the Childrens' Bureau is given certain power to issue regulations controlling the employment of children less than sixteen years of age. One of the early regulations restricting their employment was to hours before seven o'clock. Subsequently the members of the vegetable packing industry here in your state brought it to the attention of the chief of the Childrens' Bureau that this regulation created an impossible operating condition because of the shortness of the season and the absence of labor. After due investigation it was concluded that a change could be made again without sacrificing any of the purposes of the act, and the regulation was modified to permit the employment of children when school was not in session until ten o'clock at night. The same spirit followed in other regulations issued by the administrator and the chief of the Children's Bureau.

Another important branch of the administration of the act is its

enforcement, and our litigation policy. There we put into effect the same dominating thought that I mentioned earlier. The belief is for the most part that those who are aware of their obligations would meet them voluntarily, provided their competitors who did not comply voluntarily were compelled to comply. This policy, this premise is given effect, throughout the whole process of enforcement. The enforcement begins, of course, with an investigation by inspectors employed by the Wage and Hour Division. Under the Fair Labor Standards Act they are empowered to enter the plants and to inspect the books and records required to be kept by the law, and they determine in the course of that inspection and discussion with employees whether or not there have been violations. If violations are discovered, the inspectors must determine whether they have been flagrant or wilful and deliberate, or whether they have been due to mistake or misunderstanding, or, in many cases, ignorance. If the latter is true, if we have reason to believe that the employer will comply voluntarily after the act is explained to him, then it is the responsibility of the inspector to advise the employer of the extent of his violations and to explain to him how they can be corrected. He then seeks some assurance that there will be a compliance in the future, and as evidence of good faith and of an intention to comply in the future, we ask the employer to pay to his employees the amount of the wages, whether for violations of the minimum or for violations of the overtime provisions which should have been but were not paid. Even if they have violated the law, it is interesting to know that the administrator does not insist on the equal amount for liquidated damages which the employees may recover from the court be paid. He asks merely that the employees be made whole as an evidence of his intention to comply with the laws in the future. In a very large percentage of cases it is possible to dispose of violations of the act administratively by this method.

But there are, of course, cases where the violations have been substantial, or where they have been recurrent after the first inspection, or after the second inspection. that have occurred in the case of an employer, who after the act has been in effect six years does not yet know the extent of his obligation. Then we feel that we must see that we have some additional assurance of future compliance. In the ordinary case this can best be secured by an injunction of a court of equity restraining the future violations of the act. We attempt, if we can, to secure the entry of such a judgment by consent, saving everybody time and trouble, but if need be, we are prepared to prosecute and contest the litigation. Frequently this litigation is necessary because there is

a disputed question of interpretation or a doubt as to coverage. In other cases where violations have been recurrent, we seek it more as a matter of enforcement policy.

The other remedy which the government has to enforce the act is a criminal prosecution through the Attorney General and the United States District Attorney in each of the districts. It is only in a small proportion of the cases that criminal prosecution seems necessary or advisable.

I have spoken so far exclusively of the Wage and Hour Provisions of the Act, in order to avoid the necessity of jumping back and forth from that to the child labor provisions, but it is important to emphasize that in addition to these Wage and Hour Provisions, the act does contain provisions against the employment of children under sixteen. In some instances the prohibition runs against the employment of children under eighteen in extra hazardous operations; and under regulations promulgated by the chief of the Children's Bureau it is possible under certain conditions to employ children less than sixteen, but the general rule is that there is a sixteen-year minimum.

There are two respects in which this provision differs from the Wage and Hour Provision. In the first place, it is not administered by the administrator of the Wage and Hour Division, although his inspectors assist in enforcing it, but it is administered by the chief of the Children's Bureau of the Department of Labor.

The second difference is that the coverage is based upon a substantially different premise. Instead of forbidding the employment of children in commerce or in the production of goods for commerce, the Child Labor Provisions of the act proceed on an establishment basis, that is to say, they are directed against the employment of any children in or about an establishment which ships its goods in interstate commerce. The effect of this is that it is unnecessary and immaterial to show whether or not a particular child is employed in interstate commerce or in the production of goods. It is enough to encounter the requirements of the act that it is employed somewhere about the establishment.

In the administration of the Child Labor Provisions the same policy was carried out by the chief of the Children's Bureau that was given effect by the administrator of the Wage and Hour Division, that is to say, she attempts first to educate the employers to the requirements of the law and to proceed by civil or criminal action only when

it is clear that there has been a plain disregard of the requirements of the law.

I thank you. (Applause).

(President Barnett then presented Mr. W. A. Ellis of Carthage, who read his annual poem.)

MR. ELLIS: WAR-TIME MUSINGS

I.

The old dispensation is passing away
And bringing new issues, new orders, new day.

The old and new prophets from Moses to John
Have given new visions to ponder upon.

The four dreaded horsemen are riding once more
And trampling the nations as never before.

Death, hell and the grave ride hard on the blast
And scatter destruction wherever they've passed.

Disease, death and famine are left in their train
While millions of martyrs will perish in vain.

Unless we secure the rich blessings of peace
Around the whole world which never shall cease.

II.

The world can not live on commerce alone,
But must have a spirit akin to God's own.

Religion and morals, the bulwarks of state,
Must be the bedrocks of a nation that's great.

In hoc signo vinces, 'neath the cross in the sky,
Gave Constantine courage to conquer or die.

III.

We speak of a union of hearts and of hands
In State, schools and churches and social demands.

The world is expecting some good Santa Claus
To give them free money, and freedom—not laws.

God made of one blood all the nations of earth
And gave them their color at time of their birth.

In matters religious, we're One and the same
But otherwise differ in playing life's game.

In matters religious, we had the same start
But race differentials have kept us apart.

Like painters blend colors from dark and bright hues
God gives each a color which none can refuse.

When Noah awoke from his unseemly way,
He gave Ham a message that's with us to-day.

A servant to Shem and to Japheth should be
As long as the rivers should run to the sea.

We differ in talents, in hand, heart and head
But follow the banner where Masters have led.

In aims and ambitions, in church and in state,
Inventions, productions, in ev'rything great,

In commerce and business at home and abroad,
We've fought many battles in name of the Lord.

We've fed many millions in times of distress,
With never a thought but to help and to bless.

What more can we do, what more can they ask,
To help us fulfill our God-given task?

We'll go to the limit in all timely aid
But cross not the landmarks Jehovah has made.

The laws, constitutions, decisions and all,
Can never break down this impassable wall!

It never can happen, this side of the grave
That people are equal, wise, righteous and brave.

When life is all over and God calls His own,
We'll then stand as equals around the great throne.

IV.

Old sackcloth and ashes are the garments we need
Instead of high living, rich dishes and greed.

Don't worship the dollar for what it will bring
Instead of the cross to which Christians should cling.

Don't worship the dollar instead of the cross
Nor count all our blessings by profit and loss.

V.

We're fighting the fight like heroes of old
With modern war weapons and hearts of pure gold.

Remember Pearl Harbor, our Hawaiian base,
Which treacherous Jap tried hard to erase.

Bataan's great horror is far Philippines
And all that they've suffered in fierce battle scenes.

MacArthur, magnific, in far, distant isles,
Is freeing lost people for thousands of miles.

The Jap and the German are riding apace,
And trying to conquer the whole human race,

In Asia and Europe, on seas and all lands,
To subjugate freedom to servile demands,

But England in Europe and we, U. S. A.,
With help of our allies, will soon win the day.

Kentucky's great motto is good for us all—
"United we stand, or, divided, we fall."

VI.

America, wake up! The world is on fire
And civilization's about to expire.

May all who are worthy inherit the earth.
And multiplied millions rejoice at new birth.

We're watching and praying for light and more light
To win a great vict'ry for God and the right!

(The Bar Association then recessed until 1:50 P. M., the same day.)

AFTERNOON SESSION, JUNE 1, 1944, 1:50 P. M.

PRESIDENT BARNETT: The meeting will now come to order.

(In the absence of Mr. A. A. Cohn, President Barnett read the report of the Committee on Unauthorized Practice of Law.)

REPORT OF THE COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW

Your committee had no occasion to hold any meetings during the year. We have had one complaint of the unauthorized practice of law due to the fact that some real estate agents had been preparing deeds for the public. We did not think that this justified calling a meeting of the committee, as the committee is composed of members of the association from all parts of the state. In addition to this fact, we feel that the persons receiving this type of legal service will eventually shed the tear of repentance.

It has come to the personal attention of some members of the committee that there are persons in the state who attempt to practice law by obtaining claims and adjusting them without litigation. This is an evil which has existed for many years, but to obtain actual evidence sufficient to justify legal action on the part of your committee is extremely doubtful.

We feel that this committee on the unauthorized practice of law should be continued for the purpose of handling matters of the unauthorized practice of law which may arise in the future.

Respectfully submitted,
A. A. Cohn, Chairman

PRESIDENT BARNETT: We will now have a report from Judge Kimbrough, Dean of the Law School of the University of Mississippi, a man in whom every one has the utmost confidence, respect and admiration.

JUDGE KIMBROUGH: REPORT OF THE UNIVERSITY OF MISSISSIPPI LAW SCHOOL

For the present session the enrollment in the Law School, along with all other law schools of the nation, has been comparatively small. The able-bodied young manhood of the state has been called to join the ranks of our armies in order to preserve our civilization, and mode of government from aggressor nations, seeking to destroy them. The Law School for this reason has been the hardest hit of any other department of the University.

The number of students in our school compares favorably with the law schools, on the same level with ours, in all other states of the Union.

Three professors constituted the law faculty for the session just

closed. The faculty for the session of 1944-45 will likely be composed of three full-time and one part-time professor.

The faculty consists of men trained and skilled in the principles of securing hard work on the part of the law students, as well as the principle of getting the subjects taught across to the students.

Our intention and purpose have been not to lower in any respect the standard and quality of the work which the school has heretofore done. The standard adopted in the past which gave to the school a rank equal to any school in the nation is still maintained, which assures our prestige as a standard law school, during the duration of the war.

The faculty being fully conscious of the gap which separates the class room work of the law school from the actual practice of the law in the law office and courts is endeavoring, as far as possible, to bridge this gap by giving to the students all of the practical training possible in the school.

The student is not only given the fundamental theories of the law together with its historic and present day philosophies, but in addition thereto, they are trained in many of the practical phases of the work of a lawyer engaged in the actual practice.

The students are grounded in the pleading and practice of both law and equity. They are required to learn and be able to prepare with reasonable skill all of the forms of pleading used both in the state and federal courts.

Training is given in the preparation of trial briefs and also the briefing of cases for the Supreme Court of the state and nation.

A strenuous course is given in the subject of land abstracting. The student before he is given his degree must prepare and complete, by his own individual work, a correct abstract of a given tract of land. He must have a complete understanding of all that must go into and constitute the abstract together with the reasons therefor in order that he may upon leaving the Law School be able to intelligently do this type of legal work.

The idea of giving the law student as much practical training as possible before he receives his degree is now considered by many schools of law a requisite to a complete legal education. Some schools have adopted the rule which requires that before a law degree will be awarded a student he must serve a six months' apprenticeship in the law office

of a reputable attorney. This is, of course, an effort on the part of the schools to protect the public against young lawyers whose minds are filled only with the theory of the law, but are wanting in practical experience.

The University of Missouri has inaugurated a plan by which its law students are required during the summer vacation following the end of the school year, to serve as an apprentice in the office of a well-known practicing attorney. Other plans for familiarizing the student with the practical side of the law before permitting him to go into the actual practice have been resorted to. I submit this is a fertile field for study and experiment and will be developed and applied more fully with the experience acquired in the experiments made.

I wish at this point to call your attention to our law journal. The Mississippi Law Journal has been carefully edited and serious attention given to the selection of articles all of which are written by eminent lawyers or law writers. We have studiously kept in mind that these articles should prove of interest, and at the same time helpful to the bar of the state.

I take pleasure in reporting and calling to your attention the last issue of the American Bar Association Journal. This issue carries several columns (see Pages 270 and 271), in which special mention is made of what is thought by the American Bar Journal critic to be the most outstanding articles appearing in the spring issues of the law journals published by the colleges and universities of the United States and Canada. In round numbers there are 250 of these journals.

The critic who edited the columns above mentioned after carefully going over all of these journals, selected articles appearing in 22 of these journals, which he considered the best and which in his opinion would be the most helpful and instructive on the subjects discussed to the lawyers of the nation.

It was with a degree of pride that I found two articles, which appeared in the January, 1944, number of the Mississippi Law Journal cited, namely, the article of Vardaman Dunn of the Jackson Bar dealing with the subject of "Continuances." The other article which was highly commended by this distinguished critic was prepared by Dr. H. B. Howerton, head of the Political Science Department of the University of Mississippi, in which Dr. Howerton in a masterly way developed the subject, "Unconstitutional Legislation in Mississippi." Dr. Howerton was heretofore a student in Law School.

The Bar might be interested to know that Dr. Howerton's son, Huey Howerton, Jr., who graduated with distinction in the School of Liberal Arts, and was selected for the student Hall of Fame, will be editor of the Mississippi Law Journal for the session 1944-45.

The above two articles called nation-wide attention to the Mississippi Law Journal and the Law School. This high recognition has caused the Law School to indulge the hope that the members of our state bar will become even more interested in the publication of the Journal and induce them to give it not indifferent sympathy but their hearty support and approval.

In conclusion I wish to inform you it is the idea of the administrative head of the University and the law faculty, backed by the Board of Trustees, that by all means, the law school together with the other departments of the University should continue to function and keep their doors wide open for those boys who are meeting the shock of terrific battles on the far-flung battlelines of Europe and the Pacific isles, in order that they may know that we on the home front are keeping them in mind and have prepared as they first slowly begin to return, many wounded and battle-scarred, to give them the legal education of which they have been deprived by the exigencies of war.

I know, my friends, that every patriotic and loyal man and woman in Mississippi will wish us to be ready for these brave boys when they come marching home from "over there." We in the Law School, you may rest assured, will do our part toward this end.

Respectfully submitted,
T. C. Kimbrough, Dean
University of Mississippi
School of Law.

PRESIDENT BARNETT: Judge Alvis M. Mitchell, Chancellor, of Pontotoc, Mississippi, is Chairman of the Memorial Committee. Judge Mitchell wired me and stated that it would be impossible for him to get here, and requested that I read the names of the lawyers who have died during the past twelve months. Those who have died since the last annual meeting of the State Bar are as follows:

H. J. Patterson, Monticello; E. S. Richardson, Philadelphia; E. C. Ward, Biloxi; P. W. Allen, Indianola; Judge D. M. Anderson, Newton; T. Brady, Jr., Brookhaven; John L. Buckley, Enterprise; J. R. East, Brandon; Frank L. Hawkins, Vaiden; Governor Paul B. Johnson, Hattiesburg; R. F. Kimmons, Water Valley; Judge E. M. Lane, Ra-

leigh; F. E. Leach, Carthage; Thomas Mitchell, Magnolia; Charles M. Murphy, Belzoni; George R. Neblett, Shelby; S. I. Osborn, Greenwood; Eugene E. Palmer, Jackson; George B. Power, Jackson; Marion W. Reily, Meridian; E. H. Ratcliffe, Natchez; Nugent W. Shands, Jackson; E. J. Simmons, Magnolia; A. J. Von Bloombergh, Jackson, (Reported Missing); H. V. Watkins, Jackson; S. A. Witherspoon, Meridian; C. H. Westbrook, Jr., Meridian; R. T. Hilton, Jackson; and B. F. Coursey, Decatur.

Judge Mitchell asked that it be stated that at the proper time, in September, I believe it is, the first Monday, when our Supreme Court convenes, that proper memorial services will be held for those deceased members of the bar and resolutions will be presented at that time and mailed to the families of the deceased members.

(President Barnett called on Mr. Thomas Fite Paine of Aberdeen to make the report of the Committee on Judicial Conferences, in the absence of its chairman, Mr. William C. Keady of Greenville.)

Mr. Paine: Mr. President, and fellow members of the Mississippi Bar Association, it was with considerable pleasure that I received a letter from our president advising me. that I had been selected as one of a committee to represent the State Bar Association at the Judicial Conference of the Fifth Circuit Court of Appeals at New Orleans, and in the absence of the chairman of this committee, I am making this report.

It may be of interest to our organization that I give you briefly some picture of the Judicial Conference. This conference is organized or created, I should say, by a special law, and provides that the senior Circuit Judge of each Circuit Court of Appeals District shall preside at this meeting. At this meeting there were approximately twenty-eight United States District Court Judges, and six Judges of the Circuit Court of Appeals for the Fifth District. And this law further provides that lawyers in active practice may also participate in these Judicial Conferences. However, as stated by the presiding judge, Judge Sibley, Senior Circuit Judge, this had not been the custom in the past, and on this occasion last week for the first time the senior presiding judge advised the presidents of the various bar associations of the various states in the Fifth Circuit Court of Appeals that they might have a committee present to take part in the considerations of this council, and therefore the various states did appoint these committees.

The first matter that came before the Conference was the fact that

these lawyers were in attendance, and it was then decided by the Conference that an organization would thereupon be created consisting of the District Judge or Circuit Judge and the representatives of the various Bar Associations in the Fifth Circuit Court of Appeals. The question came up as to whether these lawyers would be permitted to vote on various matters, and it was decided by the Conference that each bar association should elect and send to this annual conference three members, who would each be entitled to vote along with the various judges. The judges suggested that it would be a fine idea to have representatives of the bar associations actively engaged in the practice to take part in these conferences, and the presiding judge, Judge Sibley, requested that the various lawyers present notify the bar associations of each state and request that as soon as the new president was elected, that he should immediately appoint a committee and notify him, Judge Sibley, of the names of these three representatives, and I desire, therefore, to call attention at this time to this fact, so that the new president of our association will immediately take the steps to comply with Judge Sibley's request. Judge Sibley desired this done because there were various committees created by this new organization, and he proposes to place lawyers on each of these committees.

The second matter which was discussed was the new Federal Rules of Criminal Practice and Procedure, or, rather I should say the rules which had been tentatively acted on by the committee appointed by the Supreme Court of the United States, and which was submitted to the Judicial Conference, and has been submitted to the various lawyers throughout the United States for their advice, exactly as was done when the Federal Rules of Civil Practice and Procedure were acted on.

After those rules were thoroughly discussed, then the next question that came before the Judicial Conference, and one which created more interest and argument than any other matter before them was the bill which is now pending before the Judiciary Committee of the House of Representatives, known as House Bill No. 2140. The purpose of the bill is to revise the system of fixing criminal punishment in the United States Courts, and it created a tremendous interest among the various judges who were present at this conference.

It was the unanimous conclusion of this Judicial Conference that these rules, or that this law, as I should say, which is proposed as House Bill No. 2140, was revolutionary and unconstitutional, and they voted unanimously to express to the Chairman of the House of Representatives Judiciary Committee their disapproval of any such bill. This pro-

posed bill, in effect, attempts to take from the judicial part of our government the right to fix punishment and provides for the appointment by the Attorney General of the United States of a Bureau of ten men whose duty it will be to make investigations after a man is found guilty in a federal court, to conduct hearings, and in effect to fix a punishment which will be placed on each respective defendant.

At the request of the judges the lawyers present were requested to take the matter before each lawyer's state convention of the bar association, and to enact proper resolutions which would express to the chairmen of the various Judiciary Committees in the House and the Senate our disapproval of any such radical departure from the custom.

Therefore, your committee at the suggestion of these United States Judges has prepared and will submit to this Bar Association such a resolution as we think meets the occasion. This law, if it is passed, deprives defendants in criminal matters of their vital constitutional rights, and with your permission, Mr. President, on behalf of the committee I offer the following resolution:

WHEREAS, There is now pending before the Judiciary Committee of the House of Representatives House Bill No. 2140 which would revise the system of fixing criminal punishment in United States District Courts, and

WHEREAS, the Mississippi State Bar has considered the same and is not in accord with the said bill:

NOW, THEREFORE BE IT RESOLVED—By the Mississippi State Bar in its annual conference at Jackson, Mississippi, June 1, 1944, that said Bar condemns said bill and is unalterably opposed to the same for the following reasons: among others,

1. That this bill seeks to establish another Bureau and would invade the judicial powers of the United States Courts, seeking to place such judicial power in said Bureau;

2. This bill would violate the constitutional rights of the accused in that he would be denied the right to be confronted by the witnesses against him and would deny his right to be sentenced by a Judge in the court where has tried, and would deny his right to be sentenced in a public hearing in open court:

BE IT FURTHER RESOLVED: That a copy of this resolution be sent by the Secretary of this Bar to the Chairman of the Judiciary Committee of the House of Representatives and to the Chairman of

the Judiciary Committee of the Senate, of the United States of America, Washington, D. C.,
and,

That a copy be sent to each of the Senators and Representatives from the State of Mississippi, and that each Senator and Representative be urged to vote against such bill in event it is favorably acted upon by said Judiciary Committees.

(Motion to adopt the resolution was duly made, seconded, and passed.)

(President Barnett introduced Mr. W. S. Welch of Laurel, chairman of the Committee on the Bill of Rights.)

MR. WELCH: REPORT OF THE COMMITTEE ON BILL OF RIGHTS

Your Committee on Bill of Rights respectfully reports that nothing has been referred to the Committee for consideration or attention. The chairman certified to the council for Civil Right, 291 Broadway, New York City, the membership or personnel of the Committee with post-office address of each of the members.

The President of our Association, who has served us for the past year with commendable zeal and with loyalty to the highest ideals of the profession, was rather anxious for this Committee to have a meeting at Jackson. Travel restrictions made necessary on account of war conditions prevented our doing that.

The founders of our country were genuine patriots. They put service to their country ahead of selfish views and plans. They were not too busy to give heed to the demands of a liberty-loving people. So impressed were our forefathers with the necessity of safeguarding the hard won liberties, they would not sanction the adoption of the Constitution until it was generally agreed that the Bill of Rights would be made a part thereof by amendments. The first ten amendments to the Constitution constitute our Bill of Rights. We should make it a paramount duty as citizens to see that no one shall remove the landmarks. In particular, we should teach our children the importance of good citizenship. If we do that, we will familiarize them with the first ten amendments to the Constitution of the United States, which said amendments are the very mud sills of our freedom.

As lawyers, we should strive to defeat government by commission, we should oppose bureaucracy and we should fight to the last any in-

vasion of our rights as set forth in the Constitution and the amendments thereof.

We assume that in this tragic hour, primary consideration is given and should be given to ways and means of winning a war and a lasting peace. It occurs to us that the members of the Bar could have no higher purpose or more safely and securely preserve for ourselves and our posterity those rights vouchsafed to us by the federal and state Constitutions, than to make some contribution to the war effort.

The fourth amendment to the Constitution reads as follows: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

A discussion of recent violations of this amendment, which violations have been so prominently mentioned in the press during the past few weeks, at this particular time might hinder the war effort. That is the reason that we do nothing more than refer at this time to a disregard of the fundamental rights guaranteed to us by the Constitution.

We earnestly suggest that a study of the Constitution should be stressed on all proper occasions.

Respectfully submitted,
W. S. Welch, Chairman.

PRESIDENT BARNETT: Now, ladies and gentlemen, Circuit Judge John Stennis of DeKalb is Chairman of the Committee on Americanism. We will now hear from Judge Stennis.

JUDGE JOHN STENNIS: Mr. President, ladies and gentlemen of the State Bar, after receiving a communication from our president that I was the one to make this report on Americanism, I asked a little boy that I met on the street, "Son, what is Americanism?" And his reply was, "I can't tell you what it is, but when I see our flag I feel it."

So as members of a great profession perhaps these five minutes that are devoted to thought and reflection on Americanism could best be spent by us sitting here in reflection as we gaze on the Stars and Stripes and think to ourselves our own thoughts of sublime Americanism.

I am going to bring you, though, within the brief compass of three minutes, a quotation from a man that time has proven was a great American; a man whose life reflected in many ways many of the great principles of true Americanism. And the words in this quotation that are in the nature of a memorial, let us here this afternoon, eighty-one years after they were spoken originally, rededicate them to the men and women of our profession, and of Mississippi, and of this great nation, who are this afternoon on the many far-flung battlefields of the world, following the same Stars and Stripes. And the words in this quotation that may be and are in the nature of a challenge to the living and to us, let us take them anew, seriously and solemnly into our hearts, as we face what is perhaps a hard future, but as we face it, we face it with confidence and with courage.

It is not necessary to give the name of this gentleman nor the occasion, because you will recognize it from the reading of the first sentence:

"Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.

"Now we are engaged in a great civil war; testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, as a final resting-place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

"But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here have consecrated it, far and above our poor power to add to or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here thus so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from those honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that those dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth."

I thank you. (Applause).

PRESIDENT BARNETT: Ladies and gentlemen, we will now be favored with a report of the Committee on American Law Institute, by our own Chief Justice, Sidney Smith.

JUDGE SMITH: The Committee on the American Law Institute, its function has been and is to co-operate with that Institute in annotating its work with the decisions of the Supreme Court of this state. For the last two years it has been impossible to do this because of war conditions. The members of the bar just did not have the time, and we have had to abandon it for the last two years. We have annotated quite a number or several of the volumes with the reports up to date.

It is useless for me to tell you because you will know from my conduct in the past that I think that the American Law Institute is the foremost association of lawyers in America that is engaged in clarifying the law, in simplifying its processes and in making this world, so far as the law is concerned, a better place in which to live. If you will examine now what it is worth you as a practitioner, if you will examine those restatements of contracts, agency, torts, trusts, property, all of them, you will find that on each proposition that troubles you your editorial work has been done. You will be saved a large part of your work, a great deal of work of a research character, and if you wish to examine it, I commend to you now the publication by the Institute of the citations of its work by the various state supreme courts and the United States Supreme Court, I think you will find this now—mark me—that the courts of the nation are beginning to and are accepting the work of the Institute and embodying it in their decisions whenever there is not a decision of its own court to the contrary.

Now you may think that is over-enthusiasm because of one who is a member of this council. It is not that at all. I challenge you to examine that list of citations and the points they cover and you will find that I have not over-stated it, because that Restatement relieves the court of a great deal of work. It represents the work of a cross-section of the greatest lawyers in America, and it can be relied on, and that being true I hope you will cite it more to the court of which I have the honor to be a member.

Now the work of the Institute so far as the Restatement of the law—and that is what it started out to be—has been practically finished. The last volume of its proposed Restatement of the Common Law was agreed on just a few weeks ago and will be published this fall, the last volume on Property, but the work has not stopped there.

It was thought not long since, there were some South American lawyers intimated, that commercial relations between this country and the South American countries would be on a better basis, that we would share more equally and better in the commerce of the world with those countries, if our law of sales would be brought into contact and more in unison with each other. In other words, if the law of sales in South America were somewhat like the law of sales in America, that commerce would be unfettered, and that we would be on a better basis; so the American Law Institute, in conjunction with the Commissioners on Uniform Law, have drafted, after mature consideration of several years, a proposed uniform sales act. That act, it is hoped, will not only be adopted by every state in the United States, but by South American countries, making the necessary changes in language and procedure. That act is only a chapter, however, in the work which the Institute is now taking up, and that is the adoption, the proposing of a universal commercial code. That work has just begun, except the chapter on Sales, which caused this other work to be taken up. It will take several years to do that. They work slowly, they grind exceedingly slow, but like the gods, the American Law Institute grinds exceedingly fine. And when this work is put out, it will be as nearly perfect, if it is correct, as the human mind is capable of. That is not extravagant language. It is modest language, if you know what I know about the work of that Institute. It is presided over by one of the greatest lawyers in America, a great statesman, whose patriotism is not exceeded in my judgment by any man, north or south, and that is Senator George Wharton Pepper, a man whom all of you would like to know, and if you knew him, you would know that no imperfect work would get by him.

About three years ago now, with a pat on the back of the administration, yes, not only of the administration, but of the leading men of all parties, the Institute took up the preparation of an international Bill of Rights, not one to be adopted by a corporate international party, but one recommended for adoption in each country, and in preparing that bill of rights, they had South American lawyers and patriots, European lawyers and patriots, and a Chinese, Mr. Whoo Shee, one of the most attractive men I know. He was a member of that committee that drafted the terms of the Bill of Rights, and I commend it to you. My Brother Welch will endorse it when he reads it. It does not negative anything in our bill of rights. It clarifies some things, and if adopted and carried out, I give it to you as my judgment that so far as liberty is concerned, this world will be a better place in which to live.

Now, that is the work that that association is engaged in. I ask you to give it your cordial support. The only support you can give it is your good will and use by you of its publication, and if you do that I think you will have done your part in aiding the work of an institution which I will again say is the foremost body in America in so far as lawyers are concerned, engaged in making this world a better place to live in.

Now, I see before me one of America's great lawyers. You are going to hear him in a few moments. He is president of the American Bar Association, and I have not said a word derogatory about that association. It is great. I do not know what American lawyers would have done without it, but he will tell you that the American Law Institute is the American Bar Association's baby. It endorsed it. It put it on its feet, and if it had not been for the American Bar Association, we would have had no American Law Institute. I thank you. (Applause).

(President Barnett called for the report of the Special Study Committee, Mr. J. Knox Huff, Forest, Chairman.)

MR. HUFF: REPORT OF SPECIAL STUDY COMMITTEE ON THE PROPOSED CIVIL PROCEDURE ACT OF 1944

Acting upon the authority of Section 2 of Article IV of the By-Laws of the Mississippi State Bar and Section 24 of the State Unified Bar Act of 1932 President Barnett early in this associational year appointed a Special Study Committee on pleading, practice and procedure in the State courts.

The Committee consists of:

J. Knox Huff, Chairman, Forest; John Morgan Stevens, Jr., Vice-Chairman, Jackson; Webb W. Venable, Clarksdale; Will E. Ward, Starkville; M. M. Roberts, Hattiesburg; Robert Lee Jones, Brookhaven; Ed Brunini, Vicksburg; Hugh V. Wall, Brookhaven; Myron S. McNeill, Hazlehurst; James McClure, Sardis; James A. Cunningham, Booneville; O. B. Triplett, Jr., Forest; Robert W. Thompson, Jr., Gulfport; James T. Crawley, Kosciusko; Phil Stone, Oxford; John D. Green, Jr., Starkville; William N. Ethridge, Jr., University of Mississippi; Richard Everett Stratton, III, Jackson.

The first meeting of the committee was held early in June, 1943, at Jackson. Two conclusions were reached; 1, there is a growing tendency in some departments and bureaus of the state and federal gov-

ernments, and of the general public to circumvent the Courts; and, 2, the profession and the Courts probably have contributed to breach confidence, by long delays in trial of causes, possible under our system of pleading, practice and procedure. The Committee tacitly agreed to put those propositions in form of inquiries.

Therefore, advice of the Bar Commissioners, of the Judges in Conference and of many individuals both of the bench and bar was sought. Their consensus was that courts are falling into disrepute, but that confidence might be restored by accelerating the machinery of the courts and improving the quality of their products; and that the same can be effected without attendant "undue haste." Furthermore in the great majority of instances the idea was conveyed that the profession already has been remiss in the matter.

Two courses by legislation naturally were open: either an Act to give the Supreme Court rule-making authority might be proposed, or a concise system of pleading, practice and procedure might be set up by bill. The majority favored the latter course. Members of the Court suggested that it is more democratic.

Accordingly, the Committee set to work and after numerous sessions, early last December a pamphlet containing the full text of a "Proposed Mississippi Civil Procedure Act of 1944" was generally circulated among the bench and bar.

In November and December, ten District bar meetings or institutes on the subject were conducted by President Barnett at which open, frank discussion of the proposed measure was had. To show the territorial scope of these meetings, it is related that they were held at McComb, Hattiesburg, Meridian, Philadelphia, Indianola, Starkville, Tupelo, University, Vicksburg and Jackson. It has been asserted and so far as the Committee knows, without contradiction, that more lawyers studiously considered this proposed legislation than any proposed measure since the Constitution of 1890.

Many criticisms were offered. Many were due, because in the stress of the times the scriveners had worked under great handicap. But in the main it was not difficult to engraft the just criticisms so that the proposed bill at least became the nucleus for Senate Bill 111 and House Bill 443, identical bills, introduced at the last session of the legislature, by Senate and House Judiciary Committee Chairmen, Senator Keady and Representative Holloman and their associates. In final draft of

the bill there is no doubt that the overwhelming majority of the members of the bench and bar who studied the measure favor its passage.

Reduced to its lowest common denominator the measure seeks to facilitate fact-finding, expedite the administration of justice and motivate the courts for the economic service of litigants and the general public. It does not recommend itself to the procrastinating lawyer or to the litigant who seeks advantage by delay. It was refreshing to observe the wonderful response of trial judges for whom the measure would make their office a full time working job, instead of, as in some instances, a sinecure.

The Committee must acknowledge the service of President Barnett whose zeal and effort were monumental. He spent time and money vastly beyond just dues. Members of the courts also rendered much in counsel; and Mr. William N. Ethridge, of the University Law Faculty, labored with great devotion. Except for the fact that it would be trespass upon the grounds of the legislative committee the fine service of Senator Keady and other proponents of the measure ought to be particularized.

Finally, it is suggested and recommended that the interest aroused in this important matter shall not be allowed to wane; and that the Bar shall prosecute to final enactment the needed reforms.

Respectfully submitted.
J. Knox Huff, Chairman.

(At this point, President Barnett introduced the Honorable Joseph Henderson of Philadelphia, President of the American Bar Association.)

Address of the Honorable Joseph Henderson, President of the American Bar Association

Mr. Henderson: Mr. President, distinguished guests, and members of the Mississippi State Bar:

May I first tell you how happy I am to be here, Mr. President. I met you most pleasantly at Birmingham last fall in December, when the American Bar started an experiment of trying to take the law to the lawyers. Also that has been demonstrated, Judge Kimbrough, in what you are speaking about in connection with the Bar Association Journal. We want to make it somewhat like the American Medical Association. The lawyer is going to need that journal, not as a law review proposition, but as a matter he can use in his practice, and we

are trying to take the best articles we can from all known magazines which will help him in practicing law.

Now, Mr. Chief Justice, may I subscribe fully to what you said about the American Law Institute? Senator George Wharton Pepper is the head of that American Law Institute and has been and is doing a magnificent job, and he like many others have been doing yeoman work in that connection, like others have been doing in the House of Delegates and other various capacities of our American Bar.

I wonder if you know today how many administrative federal tribunals there are. If you do, you know more than I do. I have been trying to find it out for some time, but I am very glad to learn one thing, I am very glad to learn that of the number of those tribunals, there are six commissions that the organized lawyers of this country today are trying to see that a uniform procedure is set forth to take care of those tribunals. We have held a couple of regional meetings. We have had brought to the lawyers, as Ross Barnett knows, in Birmingham, and others in St. Louis, we have had these men from the various tribunals, as you have had today, to come and tell us their side of it. We want both sides of everything, but what interested me more than anything else, just as was said here this morning by Mr. Cox, all of those tribunals that come before us are alive to the fact that we are trying to do something.

You will recall that when he spoke this morning of our particular bill and the declaratory judgment part of it, at least they are conscious of what we are trying to do. Not only that, but it has been my experience that every one of them that have appeared before us have said they are interested in the same things that we are, and that is our fair and impartial purpose, in trying to get what the constitution is supposed to guarantee to us.

Furthermore, if I would tell you, as I looked it up this morning in the study of your Chief Justice, something that I have been saying, have said it so many times that like a lawyer, I wondered if I was correct, I looked it up in Corpus Juris Secundum to see if there is any title called "Administrative Law," and there is not any title in that recent book entitled "Administrative Law." If I would tell you that ten years ago there was exactly one case book on "Administrative Law," I doubt if you could challenge me. Today there may be seven or eight, but what has happened? In about the 1880's a great many of our students went to continental Europe for their post-graduate work.

They came back here imbued with the idea of continental Europe with reference to the separation of powers.

The Interstate Commerce Commission came along about that time, and the growth of the number of commissions has increased from that time on. Of course, the greatest growth of them has come in the last decade. But what I am talking to you about, has nothing in the world to do with politics. It has everything to do with government, and the form of our government. This is not republicanism, and is not the democratic party at all. One of the greatest suggestions that has been made in this connection was the Attorney General's Committee appointed by President Roosevelt which created this new bill that I shall speak of later, a bill that was the recommendation of this particular committee. It goes back to the Bill of Rights. It goes back to the Constitution. It goes back to the Declaration of Independence. It goes back to the form of government that you and I are proud of, and that form of government that our boys are out there fighting for, and that you and I are going to see that they have when they come back.

Of course, as I said before, you know in England they have the parliament system of government, and that dispensed with a great deal of their legislative authority. That began in continental Europe, their ideas and system of government. That is not what you and I have been brought up under. We have been brought up under a system of government that has the legislative, the executive and the judiciary departments. They give the checks and balances that are placed upon each department or part of government. Europe does not know that, and you will be perfectly amazed, those of you who have not made a study of this, if you saw some of the practices that are going on here today, compared with what is going on in Nazi Germany. As a matter of fact, if I would tell you that in 1938 the federal government issued a series of rulings up to that date in a series of books, I think sixteen volumes, about 1100 pages, and from 1938 to 1941, they put out ten more volumes with 2700 pages, and today even with the use of the mimeograph they can not keep up with all the rulings. So you come down, and if you and I try to find out what to do and how to try to take care of our client, or whether the client could take care of himself, he is lost in the wilderness. We are going to try to get out of the wilderness.

This is a matter that is serious. It is a matter that needs great attention, both from the federal standpoint and from the state standpoint. May I say in passing perhaps that one of the great state acts was the

act of the State of Ohio. However, we are in the main interested in the federal act, and will you indulge me while I read a couple of quotations here? I shall not read many, but as I said before, living in the shadow of that great building in Philadelphia, or living in the shadow of the lives of Benjamin Franklin or Washington, Jefferson, Hamilton, and the others, we are actuated by the liberty-loving attributes of those great men. Do you think for one moment that they drew up a constitution for us not knowing exactly the castes that existed in Europe at that particular time? Do you not think that they full well knew what the Stuart Kings were doing, and after the Declaration of Independence showed an independent judiciary, that King George the Third had no idea of it? And at the time of the French Revolution, if you will just take a current copy of the articles that the O. P. A. has promulgated, and then you go back and check them with the administrative tribunals of the days of the French Revolution, you will not be able to distinguish the difference. They are the same.

As I say, when our ancestors came here or were here and they made that fight, they were fully aware of those castes to which Europe has been subjected. Now we run the risk of having those same castes here due to what you and I know as a bureaucratic form of government, in which there is no right of judicial review, and in which bureaucracy has been supreme. I would like to read something that Thomas Jefferson wrote. It is rather simple and rather short. He said:

"All the powers of government, legislative, executive and judicial, result from the legislative body. The powers of government should be so divided and balanced among the several branches of government that no one could transcend their legal limits without being effectively checked and restrained by the others."

Now, what are we interested in? There are two schools of thought, those that believe the administrative tribunal should be absolute and should not be subject to the same checks and balances which the constitution has set up. No legislative pronouncement can come through without being subject to public opinion, without the public knowing exactly what is going on about it. Courts again are subject to the same situation.

When it comes to executive authority, the most recent illustration of that is the Montgomery-Ward case, the executive directing an order, that after all the Senate today is determining whether that order was legal. As I say, these checks and balances were set up by the constitution, checks and balances that each one should have the authority in

their own particular field. We are not opposed to administrative agencies, but we are opposed to supremacy or bureaucracy where they shall have the final word. Why should they not be subject to the same courts that you and I are subject to? Why should they not be subject to the same checks and balances that the other branches of government are subject to? They say the decrees of the federal courts will take care of this matter only so far as the courts give them the right to help you. That is a great departure from where our ancestors started.

Judge Parker is doing a great job in the administration of justice through the courts. I told the Judge some time ago, as a result of inquiries which I got from all over the United States with reference to the administration of justice through the courts, I found one objection, and that was procedure, but I found practically no objection to the fact that the client in the final analysis was satisfied whether he won or lost. but at least he would have fair play in the decision that came down in a tribunal as you and I understand it.

Let us take the other side. At the time I go throughout the country I find out what people think of these administrative agencies, and in most instances there is criticism of the treatment and the way that they were handled, and you and I are losing our rights in this state, which will become the super-state, and we may as well take the phrase from them, when they tell you it is your fault and mine. Fellow Americans, are we going to give up what has been given to us? Let us go back to the courts that we believe in. We believe in them fundamentally. We believe in them because those men are free to make decisions. Very many of the cases before them are not novel and new, but you find so many times before these administrative tribunals, they are not versed in the idea of making decisions. If you go before a court, and you think that the court has made an error in its finding of law or fact, there is another court that you can go to with those particular findings, perhaps to a court *en banc,* and subsequently to a court of appeal, and that court which makes the final decree or passes upon the matter, those men are trained to make decisions.

Then again, many of us have had a great deal of experience with the National Labor Relations Board. Rather recently, within a week, certiorari decided the case, if you will pardon the modesty with which we handled it, and don't let anybody fool you that those administrative tribunals do not hand down matters that are brought before them. They hand them down any way. Expediency is one of the great things they speak about. Take in the Republic Steel case where the Board tried

to lay down an order that the employer had to take back a W. P. A. worker who had struck, and the Supreme Court said in that particular case that the Board had gone beyond their authority, and had gone beyond their power. That is one of the things we are fighting for. Many of those boards go out on a limb, they go beyond the authority that Congress set up for them, and they go beyond it because they have the idea, this continental Europe idea, that Congress is supreme, and that they can interpret what Congress meant and make their own administrative rulings. You take just last fall one of the commissioners was being interrogated about how far they were going beyond their authority, and they spoke very bluntly and said they were trying to grab public opinion, and knew very well that Congress did not give them that authority. Only about two weeks ago in Cleveland the War Food Administrator went ahead and taxed people out there, or rather, administered the act, and the District Court held that Congress had the power of taxing and doubted very much whether the War Food Administrator could go ahead and tax.

Those are the things that arise in our administrative tribunals. Public won't change them at all. They will have to be changed by the people who are being bothered. We will have to act collectively. Individually we can do very little, but collectively we can do a great deal.

There are many of those agencies that are just as much interested in what we are trying to do as you and I. Now, what are we trying to do? I could set forth many complaints that we have against them. You know enough of that. There is no one that is not affected by them. There is no one that is not going to be affected by them in the future, and there will be so many more after this war than there are today that it is our job now to see that we have the proper procedure in connection with them. All we want is fairness, a fair square deal. That is all we want, and that is what we are speaking about; for this public that is coming to us, not as lawyers, but this public is coming to us as leaders to lead the way so that they can follow.

We have set forth a four-point program. First, we want everybody who is to be affected by any order to have a right on proper notice to appear and be heard. That may sound strange, but if you will only go back there was a case decided by the Supreme Court about a year ago, in which the government took the position that even though people were going to be affected, that they had no right to appear in that particular case. The majority of the Supreme Court did not follow

them. Therefore, I say, if a charge is going to be made against me, I want to know what it is and I want notice of it and a right to appear.

The second point is this: If a charge be made against me I want to know what it is, with the right to refute it or challenge it or explain it. I want everything in the case to be a part of the record. You may say that does not quite seem possible, but after all there are many agencies today that make their own records, and when it comes up for final finding they do not know what it is based upon, and neither do I.

Our third point is that we want a finding of facts. We want facts, such logical, probative and substantial evidence that you and I understand, and upon which we would be willing to make a finding ourselves. We want to know what those facts are. We want a fair, full and impartial hearing that we are entitled to, and then we want a review by a court, a review by an established court, a court that understands what justice is, a court that is interested in deciding matters on the law and on the facts, that is going to determine whether or not the agency went beyond the bounds of the statute, to determine whether or not they are interested in policy-making or whether they are interested in making a fair decision on the matter before it.

That is the law. We want that review.

After all there is no greater duty that a judge can do than to see that justice is done to his fellow man. This matter interests the judges just as much as it interests the lawyers and the public. I have been making a study of what is going on in the courts, and I want to tell you that there are just about half the number of cases started in Philadelphia now as there were in 1938, and there is only one Supreme Court—and I have been all over this country, I think I have been nearly 40,000 miles since the first of last September, and I tell you there is only one Supreme Court that I found that has more work than last year. Of course, the federal judiciary has many more cases.

The lawyers in Chicago in February of this year had presented to them this administrative procedure bill. I am sorry that I do not have copies here to be distributed to you. They will be here because they have been sent to you, and you perhaps will have them tomorrow. That bill represented a tremendous amount of work, and as any of you know who attended the meeting of the House of Delegates in Chicago on the last day of February, that bill was thoroughly discussed from every angle, and that bill was adopted unanimously by the House of Delegates of the American Bar Association. The American Bar Asso-

ciation represents perhaps 32,000 lawyers in this country, but the House of Delegates of the American Bar Association represents the lawyers of this country through state and local bar associations, and they represent perhaps 150,000 lawyers of this country and perhaps 80,000 of them have endorsed this bill. I shall not go into this bill in detail. You are going to have an opportunity to look at it. You can look over it. You perhaps have read it already. See what you think about it.

We are interested in publicity; so everybody has a chance to talk about that. We are interested in education. Then we are interested in the declaratory judgment, so that a person will know what to do. Then again we are interested in the matter of hearings. We are setting up in that particular procedure that there must be impartial examiners, people who must pass civil service, with a schedule of salaries to be paid to them, and that they shall be entirely separate and apart from the particular agencies. I think that is one of the greatest things in connection with the bill. Then we go on through and say where the hearings shall be held, and what shall be done in connection with the hearings. Then we come to the question of judicial review.

Gentlemen, it is a great act. I hope you will read that act. That act has not yet been introduced in the Congress. That act will be introduced in Congress, and may I tell you that it will have a sponsorship of which you and I will be proud. There has been an act introduced known as the Gwin Bill. That is not our bill. But Congress, I think, is fully alive to this measure.

Gentlemen, what you can do is this. After you have read this bill, then you as lawyers, you start seeing that the people out in the country know what this is. That it affects their rights; how it brings about constitutional government with its restraining checks and balances; how it brings us back to the old days of constitutional government, and that we are not going to give it up to bureaucracy, as we understand it. You go out and tell the farmer, tell the school teacher, and tell everybody else what it is; and after all there is one thing that the Congressmen understand, and that is that this bill will not go in as a bill of the American Bar Association. This bill will not go in as a lawyers' bill. This bill will go in as a great public service that the lawyers are doing for this country, and you tell that person that is what the Congressman understands. A letter or a telegram should be sent from the person at home to his Congressman, and when that telegram comes in or that letter comes in, he knows that somebody is speaking.

After all, in due time this country will be organized, and you law-

yers and you bar associations are going to have a great deal to do with that organization, and when you do, and if you follow this, then I think you can come to the conclusion of all of us, that we have done a job, because as bureaucracy grows the legal profession is destroyed. When the legal profession is destroyed, there is no one to speak for the public.

We are not here to try to save an iota for the legal profession, but we have a great job here to save something for the public. Your Chief Justice was speaking just a while ago about a great Chinese, Whoo Shee. May I just in closing quote a little statement that he made about a year ago, something which you and I want to carry down through the ages, and in so doing we are going to help the administration of justice. After all, this is the only country where justice is administered under law, to a great extent, as you and I understand it. It may be in some of the other English-speaking worlds, but it is supreme here.

In the words of this great Chinese philosopher, he said:

"Justice without force is impotent;
Force without justice is tyranny;
Justice with force is the hope of all mankind."

Gentlemen, the toilers of all lands come to America. This is and has been a country where the hope of all mankind is. It is your job and mine to see that it remains so. And may I thank you, Mr. Barnett. (Applause).

PRESIDENT BARNETT: Mr. Henderson, we are indeed most grateful to you for this most interesting and instructive address.

(Whereupon the meeting of the Mississippi State Bar was adjourned until 9:30 A. M., June 2, 1944).

FRIDAY MORNING SESSION, 9:30 A. M.
JUNE 2, 1944

(President Barnett called the meeting to order and presented Mr. Robert Burns, chairman of the General Legislative Committee.)

MR. BURNS: I am going to mention just two or three acts of no great importance, that I expect you lawyers are all familiar with, that are in your new statutes, the 1944 acts. You are, of course, familiar with the two statutes dealing with acknowledgments by service men. I just want to mention the fact that it is in the law now. For future acknowledgments you had a rather intricate certificate that the notary has to put on the instrument, and the past acknowledgments prior to

the approval of the act were ratified and approved, it looks to me like, without the details of the future certificate.

You amended your act dealing with the investment of guardianship funds, so as to permit the purchase of shares in building and loan associations and the savings and loan associations.

You have a requirement now that every notary must affix his seal to acknowledgments, but some thoughtful lawyer, when the bill was going through the legislature, slipped in that old saving clause, "But a failure to do so shall not affect the validity of the acknowledgment," and that took care of that pretty largely.

You have a provision in here that I think is good now, for the preparation and distribution every two years of a supplement to your code. I hate to pay for it, but I think we ought to have it, under a contract which the Attorney General arranges.

Now, there was a slight amendment to your statute dealing with the payment into court of less than $300.00, I believe it is, to minors, in the payment of delay rentals under oil, gas and mineral leases, where it is not over $50.00 per annum, to a minor, you can pay it directly to that minor if he is not under twelve years old, or, in any event, you can pay it to his parents, and then the depository bank has the same right to pay that delay rental after it collects it, without going through the court procedure, which in some instances costs more or as much as the delay rental that the minor might receive. It is going to help some of you lawyers, I think, in dealing with oil and gas leases.

We have got a provision in the new statutes for an additional method of probating wills of men in the armed forces, where subscribing witnesses are not accessible.

We have also got a new provision that the lessor in an oil and gas lease can require its cancellation of record, just like you require the cancellation of a deed of trust of record now, by written request to the lessee or record holder of the lease, which is good.

As far as your Bar Association recommendations are concerned, you know there were two changes of recommendations. One is your civil procedure statutes, revision in your civil procedure statutes, and a revision in your privileged communication statute. Your Bar recommended that whenever a party placed in issue the physical condition of the deceased, then that was a waiver of this privilege, but the legislature backed off of that and just simply said—added to the statute the right of the

heirs or personal representatives of the deceased to waive the privilege, and so it was broadened in the other direction when the legislature backed off of that and just simply said—added to the statute the right of the heirs or personal representatives of the deceased to waive the privilege, and so it was broadened in the other direction when the legislature got through with it.

Now, you had a bill this time, and this was sponsored by your Bar Association, providing for an annual meeting of your judges and chancellors. As far as I can find out, Mr. President, this statute was not passed, and, much to my regret, apparently the reason that it was not passed was that it contained a provision that the expenses of the judges should be paid. I hate to see that, because it occurs to me that the expenses of the judges ought to be paid, and I think we lawyers ought to see that that bill goes through the legislature to provide for that annual conference of judges, and we ought to see to it that they pay their expenses down here to these meetings, because I think it will result in good.

Another bill, as I understand, that failed, was a provision for a legislative draftsman in the Attorney General's office. Now, gentlemen, that is a good bill. As little as you and I hate to admit it, the average lawyer is not a legislative draftsman, and you ought to have in your Attorney General's office, with a proper salary, a good, competent lawyer who is a legislative draftsman. You hand me the proposition of drawing a workmen's compensation act or an oil and gas conservation act, and I have got to work through six months looking through all the statutes of all the states before I can draft that act, and no lawyer can do that.

Now, gentlemen, you have already heard about your civil procedure act. You know about the fact that a great effort was made to pass these statutes. The effort came on behalf of the lawyers, judges, Supreme Court judges, and every one else, and particularly the president of your Bar Association. It went through the Senate almost unanimously. It failed in the House on the last day. Now, there is a difference of opinion on the advisability of this statute, but I simply want to leave this thought with you in connection with this report. Sometimes I think we lawyers are prone to hold too much to that which already exists. We do not take hold of the new quickly enough, sometimes, I think. There is quite a difference between the fundamentals in the constitution and the administrative features of the constitution. For example, in your Mississippi Constitution you have got thirty pages.

In the United States Constitution you have six pages. You have got it filled up with administrative provisions that applied in 1890 but have no application to 1944. And changing your rules of civil procedure in the courts does not mean that you will give up any fundamental right of a litigant, but it does mean that you will expedite the business, that you will put the courts back on the basis that they were in the minds of the people fifty or one hundred years ago, and you will give your people confidence in your courts. And before I sit down I want to say this, in my humble judgment you have never had a man as president of your bar association who has more earnestly, who has more unselfishly, who has more courteously tried to discharge his duties as president of your association than this man now presiding at this session with you. (Applause).

He has worked as hard as any man I have ever seen on a job. He has spent his own money and his own time, and I am convinced he was unselfish in the doing of it. I simply want to say this word of commendation to him. I express my word of appreciation to him, and I know yours. I thank you. (Applause).

PRESIDENT BARNETT: Mr. Burns, I appreciate those remarks. I did nothing more than was my duty, and I feel like I have failed in that. Anyway, I thank you.

(President Barnett called on Mr. Forrest B. Jackson, who read the report of the Finance Committee in the absence of Mr. R. W. Thompson, Jr., of Gulfport.)

MR. JACKSON: REPORT OF THE FINANCE COMMITTEE

We, the undersigned Finance Committee, submit herewith our report and recommendations for the ensuing year.

We have carefully examined the audit for the past fiscal year, prepared by Dick D. Quin and Company, Certified Public Accountants, which, while not entirely complete is sufficient to show accurately the financial condition of the Association.

Under the most trying conditions brought about through current war conditions and so many of our younger members going into the service, we have had to curtail our expenditures and hold them in line with anticipated revenues. As a result, the financial condition of the Mississippi State Bar is in excellent shape.

Those in charge of the publication of the Mississippi Law Journal have been cooperative with our committee by changing their fiscal year

to coincide with that of the State Bar and by holding their expenditures within the budget limits. Their efforts in doing this and at the same time maintaining the excellence and quality of the publication are to be greatly commended. The audit as of May 27, 1944 reflects a verified balance of $1014.69 out of which must be paid $360.05, the balance due the Law Journal for the amount allocated under the budget for its fiscal year 1943-44. There are several additional items, not reflected in the audit, for the payment of printing in connection with the legislative program, which will further reduce this balance, but will still leave the association in a solvent condition.

In view of decreasing revenues, as a result of so many entering the armed services of our country, the committee feels that we should maintain strict economy and recommend the following budget for the fiscal year 1944-45:

Secretary's Salary	$ 600.00
Law Journal	1,300.00
Bar Commissioners Expense	450.00
Convention Expense	250.00
Office Expense	400.00
Miscellaneous Expense	150.00
	$3,150.00

Respectfully submitted,
R. W. Thompson, Jr.
Forrest B. Jackson

PRESIDENT BARNETT: Now we will hear from the Complaint Commissioner, Honorable Hugh V. Wall, of Brookhaven. Mr. Wall.

MR. HUGH V. WALL: In making this report as your Complaint Commissioner, may I be permitted in the outset to express to the bar my deep appreciation of support that you have given. When our very capable and likeable president suggested that he wanted me to serve as Complaint Commissioner during his administration, I respectfully declined, not because I did not want to serve, but because I felt there were others far more capable than I. But after our president insisted, I reluctantly accepted the place.

The office of Complaint Commissioner is important, but not desirable. The office calls for the highest degree of patriotic service. It takes energy and courage to prosecute the duties of the office. When I decided to accept the place, I let it be known that if any lawyer, re-

gardless of who he is, wilfully violated the ethics of the profession, and I found it out, and the evidence was sufficient, without fear or favor, he would face the bar commissioners for trial.

Some charges were made which were without merit. I ignored these, as it was my duty to do. Some were serious, and the proof was sufficient. I presented these cases to the Bar Commissioners for action. During my terms of office thirty complaints have been lodged against lawyers. Many of those complaints were either adjusted after the lawyers were notified, or they were without merit. Those that were adjusted were of a minor nature.

There were six complaints made against lawyers charging them with embezzlement of clients' funds. These cases were presented to the Bar Commissioners, and as a result, disbarment proceedings were instituted against three of the offending parties. One case has been tried and the lawyer has been disbarred. There are three other disbarment proceedings pending in the courts at this time. Two cases are pending before the commissioners, and I am passing on to my successor.

It is hard to understand a person who has been honored by being admitted to practice law, one of the oldest and most honored professions known to the human race, to disgrace himself and reflect on the entire Bar by embezzling money which had been entrusted to him, yet we have a few who have done that, and as your Complaint Commissioner, in cooperation with your President and the Bar Commissioners, we have caused disbarment proceedings to be instituted against the offending members. Any person who can not appreciate that a large part of a lawyer's business is in trust, and who will not treat it as such, should not be admitted to the practice of law. A lawyer should be a person of unquestionable character, in whom people could place their trust, with every assurance that the trust would be carried out with the highest degree of integrity. Any lawyer who fails to live up to this high standard should be disbarred.

Lawyers handle large sums of money belonging to other people, and they are the only class of people who are not required to give bond for the faithful performance of a trust in accounting for monies received. In lieu of a bond, he is supposed to have character which will insure a faithful accounting of all business entrusted to him, and when he fails, and the evidence is sufficient to show that he does not possess such character, such lawyer should not be permitted to continue to practice the profession. It is a serious indictment against the entire profes-

sion to permit such a lawyer to continue in the business and hold himself out to the public as a person who can be trusted.

Since the beginning of organized government, the lawyer has occupied a place of trust, and has been a leader in the community in which he lives, and when any lawyer can not measure up to this standard, he should voluntarily surrender his license and get in some other work, where his actions will not reflect upon a great and honorable profession.

This is the dark side of the picture. In fairness to the Mississippi Bar as a whole, we should not overlook the fact that are about 1200 lawyers, members of the Mississippi Bar, and only six have been charged with a serious offense during the time covered by this report. This is a very good showing, and the lawyers as a whole are to be congratulated.

Respectfully submitted,
Hugh V. Wall,
Complaint Commissioner

(President Barnett presented Mr. Phil Stone, of Oxford, chairman of the Mississippi Committee, American Bar Association.)

Mr. Phil Stone: As most of you know, several years ago, the American Bar Association formed a committee designed to study and improve the administration of justice. At the Cleveland, Ohio, meeting in 1938, an extensive report was made and was adopted and was passed on by the House of Delegates of the American Bar Association. Judge John J. Parker, of North Carolina, who will address us this morning, was made the chairman of a permanent committee for the purpose of pushing and effecting those reforms that we desire. It became necessary in doing that, that Judge Parker appoint in each state a similar committee of members of the American Bar Association. In this state, the membership of that committee is as follows, for your information:

Phil Stone, Oxford, Chairman; Ross R. Barnett, Jackson; E. L. Brunini, Vicksburg; Chancellor A. B. Butts, University; Fred H. Lotterhos, Jackson; W. E. Morse, Jackson; John Satterfield, Jackson; Chief Justice Sidney Smith, Jackson; Robert N. Somerville, Cleveland; John Morgan Stevens, Jr., Jackson; John Stennis, DeKalb; Robert W. Thompson, Gulfport; and Richard E. Wilbourn, Meridian.

Now, there is a very extensive and we think a very fine program. It will take too long here to even outline it. I do simply want to say

this: our committee here in Mississippi has decided, after going over the matter, that the wise thing for us to do at present is to co-operate with the Study Committee of the Mississippi State Bar in this state and help them in the reforms they are trying to get through, the point being, of course, that if we have one committee trying to do one thing, and another committee trying to do another, they just won't get any place.

Now, gentlemen, I want to say this in closing, two things, very briefly. The first one, I think Hugh Wall is right. I think the profession has declined greatly in public esteem. I do not think we realize that. I think it is our fault. The bill that the American Bar Association has for improving the procedure of administrative bureaus is fine, but if you want to curb the ever-growing tendency to turn away from the courts to administrative bureaus, the way to do it is to fix it so a man can get his lawsuit tried more cheaply and more quickly. That is the answer and the only answer, and we think, in so far as the esteem in which we are held by the public or the people concerned, that the time is later than we think. It is going to be done. We may do it, or the lawyers who succeed us may do it. If you do not do it, untrained hands are going to do it, and our committee invites your attention again to the program of the Study Committee of the Mississippi State Bar. We hope a majority of you will join us in trying to put that program through. I thank you. (Applause).

(Next item of business was the report of the chairman of the Legislative Committee on Judges' Conferences. Mr. J. H. Caldwell of Charleston, reported for the committee in the absence of its chairman, Judge John Kuykendall of Charleston.)

MR. CALDWELL: REPORT OF LEGISLATIVE COMMITTEE ON JUDGES' CONFERENCES

The undersigned, a circuit judge, J. H. Caldwell, one of the State Bar Commissioners, and Judge Robert E. Jackson, a chancellor, as your committee, prepared the draft of a proposed bill providing for annual conferences of the Judges of the several courts of the state, at which conferences matters of court administration, court procedure and the general business of the courts would be discussed. The act was modelled somewhat along the line of the Federal Judges' Conference plan.

We had the bill introduced in both houses of the Legislature and

the bill passed the House of Representatives but failed of passage in the Senate.

It is our idea that the bill was not fully understood by the members of the Senate and that on more deliberate study the bill can be passed at some coming session of the Legislature.

The committee is of the opinion that much good would be accomplished by these conferences as we could gain much good by the interchange of thought and ideas among the several judges.

Although the act failed of passage we think we should continue the voluntary conferences at the meetings of the State Bar and we urge and ask the judges of all our courts to attend these conferences.

Respectfully submitted,
J. H. Caldwell
For the Committee.

(President Barnett introduced Mr. John B. Brunini of Vicksburg, who read the report of the Committee on the United States Court Reporter's Bill.)

Mr. Brunini: The Congressional Act "to authorize the appointment of court reporters in the District Courts of the United States, to fix their duties, to provide for their compensation, and for other purposes" was passed and approved on January 20 of this year.

The act is made as an amendment to Section 5 of the Judicial Code, being designated as Section 5A.

The Act is found on page 3 in the United States Code, Laws of the 78th Congress, Second Session of the United States Code, Congressional Service for this year, being numbered 1.

In the same number of the Congressional Service at page 24 is found House Report #962, dated December 16, 1943 on the said Act.

The previous House Report is found on page 25, being numbered 868, dated November 16, 1943, followed by the general statement of Congressional comments, and on page 27 is an analysis of the provisions of the bill.

Your Committee wishes to make known that it has been advised by the Hon. S. C. Mize that no appropriation has yet been made to put the Act in force.

It may be of interest to the members of this Association to know that the first official court stenographer in the State of Mississippi was Ira Ford, the son of the Attorney General of the State, T. S. Ford.

Young Ford began his work in 1886 and was followed by Hon. Harris Dickson, the noted author, in 1888, the latter serving at the time the present Ninth Judicial District.

The innovation was a real boon to the bench and bar of the State.

It was a far step from what the practice had been theretofore, when it was difficult to get the Supervisors or the Legislature to authorize the expenditure for icewater in the courtrooms, for artificial illumination, and other like accessories.

The Hon. John G. Johnson, so it is reported, used to take delight in telling of the early days, in the late 50's in Pennsylvania, when "trials were halted, while counsel took snuff or sharpened their quill pens." He likewise told of the "tribulations of lawyers when the labor of writing out bills of exceptions in long hand was equal to the task of reconciling judge and counsel upon the correctness of the evidence."

He spoke of the large delays in those early times. He cited a case where an application for an injunction against the production of a play by a company billed to present the act in the City of Philadelphia was decided after many of the actors had gone to their graves.

And to think that the Federal Courts were so far behind the Mississippi State Courts! The first official stenographer in Mississippi appeared in 1886 and here it is now 1944 that we get official court stenographers for the Federal District Courts of these United States.

Respectfully submitted,
John Brunini, Chairman.

PRESIDENT BARNETT: Now, gentlemen, we have one other committee to make a report, the Committee on Special Legislation; Honorable James A. Cunningham of Booneville is the chairman of that committee. I will now ask Mr. Cunningham to make his report.

MR. JAMES A. CUNNINGHAM: Members of the Bar, ladies and gentlemen, I do not know that there is much necessity to go into the details of this report, except that the committee would like to say that the bar ought not to be discouraged with this legislation which was not enacted during the past session of the legislature. I think the first thing I ought to say in this report is that the indefatigable labors of

our honored president, who has carried the torch from one side of this state to the other in the advocacy of betterment of rules of procedure in Mississippi is one of the most outstanding accomplishments that have happened in my day. You know we should not be discouraged at things like this that do not go over easily. We can not avoid the fact that reform has always taken time. You can not perfect reform hurriedly. It has got to be done slowly. I have done it in the past, and I wish to do it now to illustrate those things. When it first began to come to our minds in Mississippi to build better roads, and to have better highways, we had to achieve that great objective very slowly. Today we have got the finest system of highways perhaps of any state in the union. You know we started in on this better than three decades ago, and public sentiment would allow us a little money for gravel, and so on, and finally we got down to where a little grading could be done. Much money was spent and time wasted, but it was necessary to put over this projected reform. We had four different systems of roads expenditures in this country before we finally achieved the end of modern highways, because it took three to four decades to educate the folks to really become interested in the big things that we have accomplished in that field. That is an illustration of where reform has been accomplished in that field. It is with this same effort that we have tried to reframe our rules of procedure. We failed to get them through at the last session of the legislature, but with the proper co-operation of the bar and with renewed efforts, we are going to do much, is my prediction, at the next session of the legislature. I thank you. (Applause).

President Barnett: Now we have Honorable W. E. Morse, Mississippi delegate to the American Bar Association, who is going to make a short report at this time.

Mr. W. E. Morse: Mr. President and ladies and gentlemen, I think that a report from the American Bar Association this year is controlled by the exhibits which we have here before us at this time, the president, and Justice Parker. All that has been said can be summarized in these words—and that deals with the American Bar Association and with our own—that lawyers are individualists. And that is their strength, and that is their weakness, and in this time of organization of all businesses and of everything, unless the lawyers work as an organized body, we can not accomplish anything. We are finding ourselves pushed back, and that is because of our lack of organization.

Now our president has made a wonderful record this year, which

is in line with the unselfish work that is before us, and is being carried on by the American Bar Association. We want more members of the Mississippi bar to work with the local bar, and we also want them to work with the American Bar Association. (Applause).

PRESIDENT BARNETT: Now, ladies and gentlemen, I have the honor and the privilege, and I assure you that it is a genuine pleasure to present to you our Chief Justice of the Supreme Court, Honorable Sidney Smith, who will introduce the distinguished speaker for the occasion. Judge Smith.

JUDGE SIDNEY SMITH: Mr. President, ladies and gentlemen of the Mississippi State Bar, among the members of the Federal Circuit Courts of Appeal, there is a very remarkable group of men, who are not only great judges, but who, because of their knowledge of life, and of its component elements, are great magistrates. Those that occur to me just now, a few of their names, the two Hands, Augustus and Learned, of the Second District Court of Appeals, Herbert Goodrich of the Third District or Circuit, John J. Parker of the Fourth, Joseph Hutcheson of our own Circuit, the Fifth, Ora Phillips of the Tenth Circuit, and others I will not pause to mention, not all of them of that group. I said John J. Parker of the Fourth Circuit. He is one of the foremost members of that progressive group, and I am using that not in the sense that we so often use the word "progressive," but in the sense that they do not permit the law to become so static, that it becomes stale and unenforcible at most. It must progress if it is to meet the demands of the situation it was created to meet.

Judge Parker has had a remarkable career. I can not refrain from mentioning just one incident in his life. Moses was carried to the top of the mountain and permitted to view the Promised Land, but was not permitted to enter, and it would seem to me that one of the most excruciating disappointments that can come to any lawyer is to be nominated by the President for membership on the Supreme Court of the United States, that great august body, in the past that has protected and still protects our liberties, and then not get to be a member. You will remember that when the then President desired to appoint a southern lawyer to that great court, he went to North Carolina and nominated Judge Parker. When his nomination came up for confirmation, much to the surprise of those who knew Judge Parker, and who thought they understood the motives that should govern the members of the Senate when they voted to confirm or reject the nomination, two special interests intervened, and that being an election year for a number

of Senators, those two interests succeeded in causing his rejection, and lots of them have regretted it since then.

I am delighted to say that the floor manager of his nomination by the Senate, the manager was Hubert D. Stephens, our Senator, who with Pat Harrison did all in their power to secure the confirmation of the nomination, and I give it to you as my deliberate judgement that that great court, great as it is, and I admit all of that, would be greater still if this man graced its bench. (Applause).

I now present to you a gentleman who is not only a good man and a splendid gentleman, but he is a great judge, Judge John J. Parker. (Applause).

JUDGE JOHN J. PARKER: Mr. President, Chief Justice, ladies and gentlemen of the Mississippi Bar Association, I thank my good friend, Chief Justice Smith, for his eloquent and gracious introduction, and I thank you for your courtesy in inviting me down here. I am glad that I came. I do not know when I have enjoyed a trip more, and I do not know when I have taken a trip that has done me more good. I have always had a great respect for your state, and it has been enhanced, Mr. Chief Justice, if you will allow me to say so, by my association with the great chief justice, Chief Justice Smith, on the Council of the American Law Institute, where I knew him so pleasantly.

I have enjoyed coming here and seeing more of the people of Mississippi, and more of the bench and bar. I have seldom had a more delightful experience than I had yesterday afternoon when I met with the trial judges in your conference here, and heard them discuss the problems that confronted them. And I understood as I looked into their faces and I heard them talk, why it is that every one in Mississippi and out of Mississippi, for that matter, has so much confidence and regard for your courts. I was glad to come here and meet the members of the bar and to hear from you what you have been doing about this program that lies so near to my heart, about hearing how your President, Mr. Barnett, has been up and down the state, talking to gatherings of lawyers here, there and yonder about the importance of procedure. It does me good to hear it, and I assume that it would be appropriate here if what you want me to do is to talk to you about the work of the committee of which I am chairman, the improving of the administration of justice.

You know this business of improving the administration of justice is a long-time job, and there is something about it that has always puz-

zled me a little bit. What is this thing that we call the law anyhow? Have you ever stopped to think about that? Law is not just a musty collection of rules and precedents. Society is an organization. Law is the life principle of that organization, and the function of the lawyer is not to get guilty people out of trouble, or even to advise people who are puzzled about their affairs. Primarily, the chief function of the lawyer is to interpret this life principle of society in terms of rules and institutions that man can with safety live by.

Now, it seems to me that in the work of the substantive law you have done a pretty good job of interpretation, and the reason of that is simple. The substantive law reforms itself. As the conditions of life change, the rules of law applying to the relationships of life are changed by legislative enactment or by court decision relating to the conditions as they exist at the time. But with the adjective law that is not so. The adjective law consists of arbitrary rules that we have made for the handling of litigation in the courts, man-made, lawyer-made rules, and it has been a puzzle to me why it is that it has been so difficult to change the adjective law when the substantive law changes almost automatically. And I think I have found out the answer to the question that puzzled me so long, and it is this:

The good lawyer thinks that the present system is good enough and simple enough. Anything is simple to a man that understands it. The man that is not a good lawyer does not know enough about the business to suggest what ought to be done, and in between those two extremes lies the great mass of us who know something about procedure, but not a great deal, and we are afraid to make any change lest at one fell swoop the legislature should repeal all the knowledge that we have, and so we just go along until the people themselves rise up and demand that something be done about it, as they did in England.

Now we have been talking a lot about reforming procedure in the United States and we finally succeeded in getting something done about it in the federal courts. I used to go to the meetings of the American Bar Association and hear my old friend who was chairman of the Committee on having procedure prescribed by rule, make his report. For twenty-five years he made those reports, and never got anything done, and finally he died. And then a member of the committee who was opposed to the whole business succeeded him as chairman, and in the meeting at Grand Rapids, I think it was, in 1933, the chairman arose and reported that it was impossible to do anything about the matter and recommended that the committee be discharged, and the committee was

discharged. The Chairman went home thinking that the matter was dead. And then six months later, Mr. Homer Cummings, who was Attorney General of the United States, had a bill drawn up and introduced in the Congress, and secured the passage by Congress of the Federal Rules of Procedure Act of 1934, which incorporated the reform that the committee had been working for for twenty-five years, giving to the Supreme Court of the United States the power to prescribe rules of practice in the federal courts. And then the Supreme Court of the United States, with all the wisdom which Chief Justice Hughes manifested in all of his dealings, instead of going to work and drawing a code of practice out of the air, appointed a committee composed of some of the greatest lawyers in the United States, headed by William B. Mitchell, now of New York, who was formerly attorney general of the United States; and that committee worked for a couple of years. They brought out report after report, which was sent out and considered by the lawyers all over the United States, by Judicial Conferences all over the United States, and finally the rules that they reported were adopted.

Now, I want you to consider those rules for a minute. They were not formulated by federal judges. They were not drawn up by skilled practitioners in the federal courts. They were not drawn up by men who specialized in federal practice at all. They were drawn up as the enactment of an ideal code of practice for a common law jurisdiction. They proceeded on the theory that a trial at law was not a contest of wits between champions, but an inquiry into the truth, and in which justice, too, should be done. And that committee, composed of men, and practical men, brought together the things that had been tried out and found successful in the various jurisdictions of this country. They brought it all into one code, and I do not hesitate to say, because I have been administering that code now for six years, I do not hesitate to say that it is the best code of practice that the English-speaking race or any other race, for that matter, has ever produced. (Applause). A code so simple that any lawyer that knows any system of practice can get a good working knowledge of it in one afternoon's study, a code so comprehensive that the most important and difficult litigation can be tried under it without difficulty; a code so short that it can be put into a pocket, that you can carry in your side pocket, and which the lawyer can carry into court with him for reference into matters of procedure.

Then in 1939 we passed the Federal Administrative Court Act—the administrative office act. Federal courts have been just like the courts in Mississippi. Every judge was sort of an independent sovereign

in his own district. There was nowhere any supervision. Circuit Courts of Appeal and the Supreme Court could reverse his errors of law, but nobody could tell him what not to administer. Not only that, but the federal judges were subject financially to the executive department of the government. We had to go hand in hand to the Attorney General and ask him to pay our secretaries, and to furnish us books, and to furnish us paper and typewriters and that sort of thing. But we make out our own budget now, and the executive department does not have anything to do with it. We provided for a system of statistics, under which the administrative office tells us four times in each year what every judge is doing in his district. Then we set up a system of judicial council by which the Circuit Judges are given power to control the judicial man-power. For instance, there are two circuits in my district that are overmanned. We have two judges when we do not need much more than one judge. I have the power to send the judges from those districts over into other districts where they are crowded and overworked. Not only that, but we have power to send them out of our circuit into other circuits, into New York, to help out in the overcrowded condition of the docket in the Southern District of New York, or into New Jersey, or into the District of Columbia. Not only that, but they have given to our Judicial Council the right to control, that is, the council composed of Circuit Judges, they have given us the power to oversee the administration of justice in our circuits, and they have made it our statutory duty to do it.

We had an old judge in our circuit, a good judge, an honest, upright, courageous man, but he was slow, and he would not attend to business. One of the brethren came to me and said, "Judge, I have a case pending here before Judge So-and-so, and it involves $50,000.00. I submitted it nearly two years ago, and he has not rendered a decision yet." I said, "What do you want me to do about it?" That was before the act was passed. He said, "I don't know." I said, "Do you want me to give you a mandamus?" He said, "By God, no, I don't want that." I said, "Do you want me to call him up and advise with him?" He said, "No, I don't want that." I said, "What do you want me to do?" He said, "I don't know."

I talked to the Judge, without letting him know that the lawyer had talked to me, and suggested to him that he ought to clean up his docket. When the administrative office act was passed, we looked into his affairs and found that he had about fifteen or twenty cases that had been hanging fire after having been submitted, for more than a year, and some of them as long as two years. The Judicial Council

simply said to the Judge, with all due respect, "We think you ought to clean up your docket, decide these cases that have been submitted, and the Judicial Council requests you to proceed to decide these cases before you take on any more work, and we will send judges in to your district to handle the cases arising in the meantime."

I had his report the other day. He has not got a single case outstanding that has been submitted as much as thirty days. (Applause).

Now, we have finally got a reporter bill, as was reported here this morning. We have been trying to get something done with respect to the punishment for crime. In the federal courts we are still proceeding as we did about 150 years ago in that respect. I am in hopes that we are going to get something done there. With one or two more acts we will have the federal system pretty well in line. Incidentally, the committee on Criminal Rules has provided a new code of criminal procedure which has been submitted to the people of the country, and is in the form of a second draft. So I feel that we have done a pretty good job towards cleaning up the situation in the federal courts.

But, gentlemen, did you ever think about it, as important as this work in the federal courts is, it is insignificant in comparison with the improvement of the procedure in the state courts. Now, why do I say that? I say it for this reason, that it is in the state courts, and not in the federal courts that the great mass of litigation is tried. It is in the state courts, and not in the federal courts, that most offenders against the law are brought to justice and punished. And not only is that true, but this also is appropriate, that it is by the procedure of the state courts, and not by the procedure of the federal courts that the average citizen gets his ideas about how justice is administered in this republic. And so I have been tremendously interested in seeing what I could do to improve the administration of justice in the state courts of the several states in this union.

The American Bar Association, when I was chairman of the section on Judicial Administration, appointed seven committees to make a study and report as to needed changes in the adjective law. You have heard reports of those committees here today, and I am not going to tell you about them, except to say that those committees were not ordinary committees. They were composed of experts, and each one was implemented with an advisory committee composed of one man from every state in the union and the District of Columbia. At the head of each committee was appointed a man who was a nationally recognized expert. Those committees gave careful consideration to the subjects and made reports, and I want to say of their reports, that

they were not all reports like so many committees recommend. The committees were composed of scholars and practical lawyers, and they submitted ideas which had been tried out in the several states and found successful, and there is not a single recommendation that they made with respect to their practice that had not been found to be successfully used in some American state. The seven reports contained sixty-seven recommendations with respect to trial practice. They were approved by the Section of Judicial Administration. They were approved by the American Bar Association, and they were approved by the House of Delegates of the American Bar Association. If you have not read them, do me the favor to turn to Volume 63 of the American Bar Association Reports, page 517, and follow them along for about one hundred pages, and read the reports of those committees. They do not tell you everything that ought to be done, but they do tell you the minimum that ought to be done in any state if you expect to have an efficient administration of justice in that state.

Some of their recommendations you will find are already in effect in this state, because they were taken from the practices of the various states. But this was a fortunate thing that happened; we found that the lawyers in California were tremendously pleased with recommendations made that were already in effect in California. But when we recommended some changes there that had been found successful in New Jersey, they were not in favor of those at all. The recommendations mentioned were divided into three classes. One class represents the progressive, forward-looking proposals. Those are in effect in New Jersey. The second class consists of proposals that might turn out to be all right, and our recommendation with respect to them is that some of the states like Wisconsin, Minnesota, and so on be allowed to try them out and see if they work out all right, and then we will consider them. And the third class is the class of recommendations that won't work anywhere except in Soviet Russia.

Now I want to talk to you a little while, if I may, without tiring your patience, about the contents of those reports. Of course, I am not going to take up sixty-seven recommendations. Sixty-seven is too many. The good Lord did not have but seven; so I am not going to discuss sixty-seven of them. I have boiled them down into five for short.

The first one is to integrate the judiciary of the several states, integrate the state judiciaries of the several states. The second is to improve trial by jury in the several states. The third is to improve trial

practice in the several states. The fourth is to improve appellate practice, and the fifth is to improve the practice of administrative agencies or tribunals.

Let me define those a little more specifically. The first one here is to integrate the state judiciaries. By that I mean that we are recommending that you in your states handle it in precisely the same way that we have done to integrate the federal judiciary, in the first place, get some control over your judiciary, man-power. I reckon it is true here. It is true in Maryland and most states, that you will have a lot of judges that do not have enough to do. You will find a lot of other judges that are worked to death, and there is nobody any where that can tell the judge who has got some spare time to go out and help the judge that is worked to death.

Now, private business could not get along that way, gentlemen. Any private business that tried to do business under that plan would be in the bankruptcy courts in less than six months. There is no reason in God's world why the judiciary should not observe the ordinary rules of efficiency that apply to private business. There ought to be authority in your Chief Justice or in a council of which the Chief Justice would be the power to send your judges about to see that the dockets are kept up and business is efficiently and expeditiously transacted. That looks to me to be self-evident, and I am not going to waste any more time on it.

The next thing is that you ought to have a judicial conference in the several states, a conference in which you lawyers and judges can get together once a year and talk about the problems affecting the administration of justice. We did that, Mr. Chief Justice, in our court in the Fourth Circuit. I sent out an invitation to all the judges in the Fourth Circuit to come to Asheville, and they came, and then after a couple of years I decided we needed the advice and assistance of the lawyers; so I asked the presidents of the State Bar Associations to come and to send delegates to the conference, and they came. I found this, that we developed an *esprit de corps* among the judges. We learned a lot from each other about things that needed to be done, and we tremendously increased the efficiency of the administration of justice throughout the Fourth Circuit, before there was any statute authorizing the holding of a conference at all. I heard the report made here that you had a statute introduced in your legislature authorizing a conference in this state. I congratulate you on the efforts you are making in that direction, but may I suggest to you it is not necessary to have a statute. If your great Chief Justice will invite the judges and representatives to

come, they will come, and you will find it so helpful and they will find it so helpful and the State of Mississippi will find it so helpful that it won't be long before you will have a statute authorizing the proper setup of the conference and the payment of the expenses of the men who attend.

Then I want to say something else to you. I sort of hesitate to say this because I think I am taking advantage of your Study Committee. The judiciary ought to have the power to regulate the procedure of the courts. There is only one way to run a democratic government, and that is to make men responsible for the running of it and give them power commensurate with that responsibility. Now, the administration of justice is the business of the courts, just as legislation is the business of the legislature, and you have no more right to let the legislature dictate to the courts how the courts shall handle their business than you have to let the courts dictate to the legislature how the legislature will run its business. (Applause).

If any man were to suggest in Mississippi that the courts of this state prescribe and provide how the legislature should conduct its affairs, he would be laughed out of the state, and yet you do not hesitate to allow the legislature to say to the courts how the courts shall run the judicial business, upon which their efficiency and the administration of the justice in the state depend. Now, I want to say this to you furthermore. I know something about human nature and I know something about legislatures, and I am not making any reflection on legislatures when I say this, but the practice will be a heap better regulated if you leave it to the courts than if you leave it to the legislature. Why? Because the courts understand the administration of justice in all its details. The courts know what rules will work and what rules will not work, and they know when an evil would be cured by a rule that would do more harm than the evil itself.

Your judiciary committees in the legislatures are the ones that generally handle matters of this kind. Nobody could believe that they have the knowledge about the administration of justice that the courts have. They have a thousand things to attend to when the legislature is in session, and the legislature only stays in session about sixty days in my state, and it is absolute folly to expect a legislature to handle the business of regulating procedure in a scientific or efficient way. What happens is that some fellow goes to the legislature that has lost a lawsuit and he thinks that the rules ought to be changed because he thinks an injustice has been done in that case, and he will propose a change or tinkering with procedure that in nine times out of ten does more harm than good. Isn't that so? It is in North Carolina.

You ought to give to your Supreme Court the power to regulate procedure of your courts. Is it democratic? Why isn't it democratic? Who elects the Chief Justice? Who elects the other judges of your court? The people of Mississippi, do they not? You trust them to do everything else with respect to litigation. Why in the name of High Heaven can't you trust them to make the rules by which your courts are to be run? They represent the people just as much as the legislature represents the people, and they represent the people with respect to the important matter of administration of justice.

Now the next thing I will talk about is improving the jury system. Let's do not have any misunderstanding about this. I believe in trial by jury. I have been at the bar seventeen years and on the bench nineteen years, more than a third of a century, and I have reached the conclusion that there is no better method of settling disputed issues of fact than trial by jury. Not only is that true, but the jury is the strongest bulwark we have been able to erect to protect the innocent from oppression at the hands of the powerful. (Applause).

But, ladies and gentlemen, the jury system is under fire. You and I know that what I have said is so. The man in the street does not know. The man in the street thinks that the jury system is a system of prejudice and corruption. He thinks that at the best it is a system of chance, and not a system of law or science. He thinks that jurors are influenced by prejudice, by favoritism, and by ignorance. And there is just enough truth in it to make his criticism dangerous. If you do not think it is dangerous, pick up any of the magazines and read the articles that are advocating the abolishing of the jury system, and the setting up of a system of trial by judges or some other forum. If you do not believe it, just watch how the administrative agencies have grown. Now, there are three things that ought to be done about the jury system. In the first place, we ought to provide for a better method for selection of juries. I do not think that applies in Mississippi, for from what I have learned I think you have a pretty ideal system for selecting jurors in this state. But in some states they need it. But the next thing I think you do need in Mississippi, that is, you have got to restore the common law power of the judge in jury trials. A trial by jury does not mean a trial before twelve arbitrators. A trial by jury, says the Supreme Court of the United States, means a trial before twelve good and lawful men, instructed and directed by a judge, a judge with power to weigh the evidence, a judge with power to conduct the trial, a judge who is charged with the responsibility of seeing that justice prevails in his court. A young federal judge came to me one day and asked me what I thought about setting aside the verdict

of a jury, and I said, "Judge, let me say this to you. No judge can escape the responsibility for what happens in a federal court. If a jury verdict is a miscarriage of justice, you owe it to the judiciary, you owe it to your country, and you owe it to your oath to set it aside." You allow a judge in this state to set aside the verdict of a jury if it is contrary to the evidence, or if it is contrary to the judge's idea of what ought to have been done in the case, or if it shocks his conscience, as we say. But what is the sense in giving the judge the power to set aside the verdict of a jury when it goes wrong, and not give him any power to guide the jury in reaching a correct conclusion? Have you ever thought about that?

What is a jury? A jury is twelve men gathered up from all the various walks of life. They are not accustomed to administering justice. They do not know much about the rules of evidence. They do not know much about the probative effect of evidence. Here are two sides, represented by skillful, learned counsel, bringing in, all legitimately, of course—I do not mean any criticism of the profession—bringing in legitimately in all the ways they can to confuse the jury with respect to the other side of the case, and make their side appear the better side. Here is a man sitting up on the bench, who has no interest in this case except to see that justice is done. He knows how to weigh evidence. He has heard a thousand cases tried, or ten thousand cases tried. He knows how to counteract the demagogic appeal counsel sometimes make. He knows how to hold the jury's attention to the real issues in the case, and yet you tie his hands and do not let him open his mouth about the case. You allow the witnesses to talk, you allow the lawyers to talk, you allow the jurors to talk when they get in the jury room, but you do not allow the judge to open his mouth, although he is the man that more than any other man will be blamed for a miscarriage of justice, if justice goes away in that case.

Now, gentlemen, you have heard the criticisms of the English courts. You have heard the criticisms of the federal courts, but I venture to say that none of you have ever heard the verdicts rendered in the English courts or in the federal courts criticized, have you? I never have. I never had before I went on the bench. But you have heard the verdicts in the state courts criticized.

Now my idea of how trials ought to be conducted is in this way. I think the judge ought to sit there and take evidence and rule on the testimony as it comes in, and exclude such as is not competent, and admit the balance. Then to let the lawyers address the jury, and to let the lawyers present their requests for instructions, and give them

such of them as appear proper, and then after everybody else has been heard, after counsel have had their say, when the jury is about to retire, this man who has no interest in the case except to see that justice is done, ought to weigh the evidence before the jury and thoroughly explain the law and the rights of every one connected with the case, so that when the jury retires to the jury room to make up its verdict, what will be ringing in their ears will not be the passionate plea of counsel, but the voice of the law, the voice of the impartial guardian of justice advising them as to what the issues in the case are. I am not saying that a judge ought to be allowed to give his opinion on the weight of the evidence. That is permitted in the federal courts, but we generally reverse a judge that engages in that too much.

What I am saying, is that the judge ought to weight the evidence and point out the issues arising from the evidence, and point out the law applicable thereto. What good does it do to tell the jury that the proximate cause is the cause without which the injury would not have occurred? Lord Bacon said it were needless to inquire into the cause because when that language is used, the jury does not understand it, the lawyers do not understand it, the judge does not understand it, and I am not certain that I understand it myself. Lord Bacon said he did not. What you need to do is to have the judge say, "Now, gentlemen, the plaintiff contends so-and-so, and if you find what he contends is right and proper, you will find for the plaintiff. The defendant contends so-and-so, and if you find that is true, you will find for the defendant."

Give them, if you want to, definitions of the law, which the lawyers themselves do not understand, and which does not do any harm ordinarily, but in addition to that give them the practical application of the law to the facts of the case. Well, I know that I am talking too long perhaps when I talk about that. I know when I start talking about changing the method of judge-and-jury trial in almost any state of the union, I am not going to get very far with it. I have some sense. I was not born yesterday. But I want to make this practical suggestion to you on this question in Mississippi. I think it is already provided for by your statutes, but I do not think you use it much. A jury is a good hand to decide the facts. A jury is not a good hand to decide the law, and no jury that I ever saw can carry enough instructions in its mind and apply them to the facts.

Now, why don't you do in this state like they do in Wisconsin, or like we have done ever since the Civil War in North Carolina, that is, submit the ultimate issues of fact to the jury, and let the jury return

a verdict addressed to issues which present the ultimate facts in the case, and then let the judge enter his judgment on the facts as the jury has found them? I suggest to you that is a fertile field for study, that it is a reform which is practical, which will in large measure meet the situation, and while still allowing counsel to present their requests for special instructions, you would make it the duty of the judge to charge the jury as to the law as applied to the facts of the case.

Now, I am talking too long, but I have come a long way, and I will not get a chance at you again in a long time, but there are one or two things I want to say to you about this trial practice business. I am not going to talk about that much because your committee has been working on that, but what you have got to do is to get rid of technicalities causing delay in the trial of cases in court. I do not care whether you adopt the federal rules, or whether you adopt some other kind of practice, but you ought to get rid of the technicalities that make the practice of law a game of wits instead of an inquiry into the truth or merits of the case. My own view is that you ought to adopt something like the federal rules. What is the sense of having two sets of practice in your state? Don't you think it would be a great help to the members of the bar if instead of having a separate kind of practice from the federal courts, that you adopt the federal code, modified, of course, according to the needs of your state? That is what they have done in about eighteen of the states now.

Then there is another thing I want you to consider down here. Mr. Chief Justice, I would like to see the bar of your state make a study and adopt the codes that were adopted in the American Law Institute. There is nothing in the world that brings the law into such disrepute with the layman as the various rules which constitute his government, that no layman understands and no lawyer understands very well. And that is just one illustration, among others.

Now, the American Law Institute has made a careful study, and they have worked out a code. There are some things in the code I do not think you would be willing to adopt in Mississippi, but most of it you can adopt without any trouble. I recommend that you appoint a committee of lawyers to study that code, and see if the legislature will not adopt such parts of it as are fair to the practice in your state. It will help you tremendously.

Then there is another feature of practice that I want to recommend to your study, and that is the pre-trial practice prescribed by Federal Rule 16, by which in advance of the trial the judge calls together the lawyers and goes over the case and simplifies the issues, and sees what

is to be admitted, and what is really in issue, and signs an order directing the future trial of the case. I have been making a study of that as chairman of the committee for the federal courts, and it is absolutely astonishing how much has been accomplished in the saving of time for the courts, and the saving of time for the litigants. Let me give you one illustration. We had an anti-trust case in North Carolina. It was estimated it would require six months to try that case. I sent Judge White up there to try that case. He asked counsel if they would not meet him in Asheville and have a pre-trial conference. It was held, and they stayed in a pre-trial conference for about a week. In the course of that week they laid out the evidence they were going to introduce, identified the documents they were going to introduce, and simplified the issues, and when that case came on for trial it was tried in three weeks, and it was just as conflicting and troublesome a case as some of the courts in New York have been trying for over a period of a year or two years. It is important in big cases. It is important in little cases. My old friend, Judge William S. Allen, one of the great judges of North Carolina, put into effect the pre-trial practice, and put it in without any statute or rule of court or anything of the sort, and put it in successfully.

I am going to quit in a minute. I am not going to say anything about appellate practice, except to compliment your Supreme Court. You know, we thought we had accomplished, Mr. Chief Justice, in the Fourth Circuit, we thought we had accomplished a great reform in trial practice when we abolished the printed record and brought cases up on the typewritten transcript, and after I had succeeded in congratulating myself in feeling good over the matter, I found that you had that practice in your state. Bills of exceptions to be settled, assignments of error to be filed, records to be printed, cost thousands of dollars to print. I wish that all the states might adopt the practice that your wise Chief Justice has instituted in your Supreme Court.

There is one other thing I would like to talk about. Mr. Chief Justice, I am afraid a good many of our courts are getting away from the importance of oral argument. I do not know how you gentlemen feel about it, but I am in favor of restoring oral argument to the place that it formerly occupied. The fact of the business is, that if a man comes into the Circuit Court of the Fourth Circuit, and agrees to submit his case on brief, he is likely to be met with a request from the court that he come down and argue his case. We have found this, that we will get a better understanding of the case. We find out particularly what the case is about. We know it comes about that way. I am not in favor of limiting them too much, either. Of course, some of them

need limiting, but we have a rule in our court that we allow a man an hour to the side, and we are pretty liberal in granting extensions if his case merits an extension, and if it is a case that does not require an hour, he soon finds out from my questions that he does not need an hour.

That is all I want to say about the practice in the courts. There are some other things I might say, but there is one thing I do want to say to you about the administration—the importance to the practice of administrative agencies and tribunals. That is the fifth point in our program, a point that the able president of the American Bar Association elaborated on yesterday. If you are not convinced from what he said, you would not be convinced from what I say. But I do want to say this to you by way of general comment on the subject. You are just fooling yourselves if you think that this business of administrative agencies and tribunals can be brushed aside.

As I have gone around over the country I find there are two classes of lawyers, roughly speaking. One class thinks that these administrative agencies and tribunals just spring from the brain of the Lord, and that anybody is guilty of sacrilege that suggests anything ought to be done about it. Then there is another type of lawyer that thinks that these administrative agencies and tribunals were inspired and instigated by the devil. Now, both of them are wrong. The administrative agency and tribunal is here and it is here to stay. You might as well put that in your pipe and smoke it. We couldn't get rid of them if we would, and we have studied about it, and we wouldn't get rid of them if we could. There are one hundred and fifty odd of them in the federal government alone, and forty-seven of that one hundred and fifty exercise quasi-judicial functions. Now, you need not tell me that that sort of a growth is not a natural growth. They have arisen because of necessity.

What is the necessity? I am telling you what the necessity is. It is this. As life has become more complex in the United States there has arisen the necessity for some control over economic life. The little man has found himself helpless in the grip of the mighty economic forces, and he has turned to the only force that he has, the grip to grapple with those forces, and that is the power of the government, and let me tell you this, our people are no more going to submit to economic tyranny than they are to political tyranny. The administrative agency has come here as a means of regulating the economic life by the power of the state, and I am here to tell you that if you expect to avoid despotism or communism or some other form of collective "ism" in this country,

you have got to give to the state the power of regulation over economic forces, and these administrative agencies are precisely that, agencies that exert some administrative power, some legislative power, some judicial power, but without which there could be no adequate regulation of what everybody recognizes we must regulate. Let me explain that last statement.

The regulation of freight rates is a legislative function, as the Supreme Court has said so many times that it has become a truism. Do you imagine Congress could regulate freight rates in the various states? If you started out to do that you would never get done with it, and so you must recognize that the Interstate Commerce Commission is a necessity if you are going to regulate freight rates, and talk about getting rid of that administrative agency is just about the height of nonsense. The same thing is true about the Federal Trade Commission. If you are going to regulate labor relationships, the same thing is true about the Labor Board. Forty-seven or fifty-one of them exert some sort of quasi-judicial power.

Now here is your problem. Here is what I want to say to you, you are just wasting your time talking about abolishing administrative agencies, and the problem which confronts the American bar is not to destroy the administrative agencies, not even to try to make them like courts, because they can not work like courts. The problem is to give them a procedure which will preserve in their processes the fundamental principles of fair play and due processes, which are the very heart and soul of American democracy. If you will do that, if you will see that the administrative agency is not allowed to exert the policy-making power of the legislature, that it is not allowed to exert the final judicial power of the courts, if you will integrate its processes with a spirit of fair play, you will have rendered a great service to our country, and that is what the American Bar Association is devoting this part of its program to. The report of the Committee I think is an outstanding piece of work.

If you think the American public is satisfied with the way we are handling litigation in the courts, you are just fooling yourself. They are not satisfied. Talk to any business man, read the magazines and the newspapers, and you will see. Ask these corporation lawyers, and they will tell you their clients will tell them that they are willing to submit to almost any sort of injustice rather than carry their cases into court, because if they win out in court they will probably sustain a greater loss than they could settle it for. Is that so? I have heard that said.

I want to thank you for your hospitality, and I shall go back to North Carolina with a golden memory of the friends that I have made and the friends that I have met on this trip to your lovely state. (Applause).

PRESIDENT BARNETT: Judge Parker, on behalf of the Mississippi State Bar, we want to express our appreciation for this wonderful address that you have made to us this morning.

In connection with the suggestions of Judge Parker, what is the pleasure of the Bar Association as to whether or not a committee should be appointed to study such parts of the proposed code on evidence prepared by the American Law Institute, and to make a report at the next meeting?

(On motion duly made, seconded and adopted, the incoming president was instructed to appoint a committee to study the above-mentioned code.

President Barnett then presented Mrs. Alice Nevels, former secretary of the State Bar, who made a few remarks on war work activities.)

PRESIDENT BARNETT: The next thing is the election of officers.

MR. ROBERT BURNS: Mr. President, before we go into the election of officers, I would like to present a resolution.

RESOLUTION

WHEREAS, the Hon. Ross R. Barnett, has served as President of the Mississippi State Bar for the year of 1943-44, and during said time has given unstintingly of his time, money, and effort to further the interests of the State Bar, of the lawyers, and of the people of our State.

He has been courteous, thoughtful and considerate of the views of every member of the Bar. He has answered the call of duty promptly and vigorously at all times. He has secured the wholehearted cooperation of the committees, members of the bar, and the judges of our courts. He has faced both the unpleasant as well as the pleasant duties of his office and discharged both with distinction. He has arranged and conducted one of the best annual conventions of the Bar ever held in our State. He has set a high standard of performance in this exalted position beyond even the call of duty.

THEREFORE, be it resolved by the Mississippi Bar in convention assembled, that we extend our sincere appreciation to Mr. Barnett for

the outstanding job he has done as president of this association, for his leadership, his unselfish devotion to duty, and for the outstanding record made by him. We ask for his continued active interest and participation in the affairs of this body, and wish him continued success and happiness in the future.

PRESIDENT BARNETT: Mr. Burns, ladies and gentlemen, I am not worthy of this resolution, but I do deeply and sincerely appreciate this. I want to say that I am deeply indebted to all members of committees and the entire membership of the Mississippi State Bar for your untiring efforts and for your loyalty and for your faithful and efficient service. You have co-operated splendidly, and I want you to know that I sincerely appreciate it.

(President Barnett then called for nominations for President of the Mississippi State Bar. Mr. Charles F. Engle of Natchez was recognized by President Barnett.)

MR. ENGLE: Mr. President and fellow-members of the bar, I am going to tell you the name of the man I am going to nominate before I make the nominating speech, and the name of the man I am going to nominate is Bidwell Adam of Gulfport.

(There were cries and shouts of "Vote—Vote—Vote" which continued until Mr. R. M. Kelly of Vicksburg was recognized by the President.)

MR. KELLY: I am going to do for Bidwell Adam what he did for me—I want to second his nomination.

(Shouts and cries of "Vote—Vote—Vote" continued, and Mr. Harold Cox of Jackson moved that the nominations be closed and the election of Mr. Adam be made unanimous. This motion was duly seconded and the Honorable Bidwell Adam of Gulfport was elected President of the Mississippi State Bar.)

Mr. Adam expressed his gratitude and appreciation to the members of the bar for his election to the presidency of the Mississippi State Bar and pledged his cooperation and best efforts.

The chair then called for nominations for first vice-president, and after election duly held, Judge Percy Lee of Forest was elected first vice-president of the Mississippi State Bar.

Thereafter J. O. Hollis, of Carthage was duly elected as second vice-president of the Mississippi State Bar.

The members of the Convention separated into district meetings and elected the following Commissioners:

District 1, T. A. Clark, of Iuka; District 2, R. W. Thompson, Jr., of Gulfport; District 3, (no election); District 4, Robert D. Everitt, Ruleville; District 5, John C. Love, Kosciusko; District 6, S. B. Laub, Natchez; District 7, Fulton Thompson, Jackson; District 8, O. B. Triplett, Forest; District 9, J. D. Thames, Vicksburg; District 10, C. D. Shields, Meridian; District 11, Van D. Stone, Lambert; District 12, J. K. Travis, Hattiesburg; District 13, A. K. Edwards, Mendenhall; District 14, J. T. Hutchison, Summit; District 15, Henry Mounger, Columbia; District 16, J. E. Caradine, West Point; and District 17, J. H. Caldwell, Charleston.

Mr. Robert Burns placed in nomination for membership in the House of Delegates of the American Bar Association, Mr. W. E. Morse, which nomination was seconded, and adopted.

On motion duly made, seconded and adopted, the past president, the Honorable Ross R. Barnett, was authorized to draft appropriate resolutions thanking the distinguished speakers for appearing on the program, and also thanking the Jackson Bar for the courtesies extended in entertaining the Convention.

On motion duly made, seconded and adopted, Biloxi was selected as the place for holding the next annual meeting of the Mississippi State Bar.

There being no further business to come before the convention, the Thirty-ninth Annual Convention of the Mississippi State Bar was thereupon adjourned.)

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BOOK REVIEW

FEDERAL RULES OF CRIMINAL PROCEDURE. Report of the Advisory Committee on Rules of Criminal Procedure Appointed by the Supreme Court of the United States. June, 1944.

The Advisory Committee on Federal Rules of Criminal Procedure appointed by the Supreme Court of the United States has submitted a report on Federal Rules of Criminal Procedure which will be acted on by Congress in the near future.

The new rules as proposed make a number of changes in criminal procedure in Federal Court; some of them are far-reaching, and others are drawn only to clarify the rules now in existence.

Some doubt the wisdom of adopting the new rules largely because of the fact that, in most instances, the Federal Judges are men well qualified and versed in the law and are eager to see that justice is done in each particular case; and if a person is qualified to be a Federal judge, he should be qualified to devise reasonable rules to be applied in court procedure in order that justice might be done.

It may be that when we adopt the procedure of enacting new rules from time to time, in the course of time, the acts of the judge will be so circumscribed that he will be unable to see that justice is rendered because of so many rules.

Rule 17 is perhaps the most far-reaching rule proposed to be adopted and has caused such discussion among members of the bar. Evidently, this rule is suggested for the purpose of speeding up the trial of cases, and perhaps this purpose will be accomplished in many instances.

The wisdom of the taking of depositions to be used in criminal cases is seriously questioned and should be considered very carefully before being enacted in law.

The Rule provides that if the defendant is unable to bear the expense of taking the deposition, and the deposition is taken at his instance, the Government will pay the subsistence and traveling expense of his attorney. If the deposition is taken at the instance of the Government, the subsistence and traveling expense of the defendant and his attorney will be borne by the Government. This latter part of the Rule is proposed in order to comply with the Constitutional requirement that in the trial of a criminal case, the defendant must be confronted with the witness testifying against him. The cost of this procedure as outlined

above will be enormous, and after all it will have to be borne by the taxpayers.

The many criminal cases being tried in the United States in the Federal Courts where depositions will be allowed will necessarily increase very much the expense of holding court.

The main objection, it appears to me, in taking depositions, is the fact that in criminal cases, the jury has the right to consider the demeanor of the witness in testifying, his general appearance, his conduct and reactions under cross-examination, in giving weight to his testimony in the case being tried. Where a deposition is taken, the jury will not have the opportunity to observe the witness on the stand; therefore, it will be deprived of one of the most valuable pieces of evidence in the trial of a case, especially in giving weight to the testimony as presented by the witness.

Some argue that a deposition can be used as successfully in criminal procedure as in civil procedure. We have always made a distinct difference in our procedure as to the degree of proof in criminal cases and in civil cases, and rightly so; for it is more important that a mistake should not be made in dealing with the life and liberty of a citizen than when dealing only with his property rights.

Our courts have been fairly successful in administering justice under the present rule, and I doubt seriously that Rule 17 should be enacted. It may be that cases can be tried more speedily by resorting to depositions, but the attainment of justice when a citizen's life and liberty are involved is of much greater importance than hastening the trial.

*J. Hollis Brown**

*Assistant Professor of Law, University of Mississippi

BOOK NOTE

MODERN POLITICAL PHILOSOPHIES AND WHAT THEY MEAN. By Louis Wasserman. The Blakiston Company, Philadelphia, 1944. Pp. viii, 287. Price: $.69.

Modern Political Philosophies sets forth the essential elements and the historical settings of the competing socio-political philosophies which find themselves at grips in the world today, identifying each philosophy by the ideals and aims which it professes for itself.

This book resulted from a realization on the part of the author that various political philosophies are but the responses of human beings to

the conditions in which they live, and from the belief that understanding should be a guide to action. The author's purpose has been to facilitate that understanding.

The brevity of the book and the number of political theories dealt with preclude comprehensiveness. It is sufficiently thorough, however, to give to the well-informed reader who is able to relate its contents to current events, a clear insight into the various philosophies that are now contending for supremacy.

NOTE

Tort Liability for Failure to Assist Others in Peril

I. The Rule at Common Law.

A healthy young man sits on a river bank and watches a friend swimming in the stream; the friend is suddenly seized with a cramp and sinks beneath the surface. He struggles up and cries to the young man for help; there is a life preserver nearby, but the spectator moves not a muscle and calmly watches his friend drown. An infant has caught his foot in a railroad track; a passer-by sees him and hears a train whistle in the distance, but he moves on and offers no aid, nor does he attempt to stop the train. Has the spectator who thus refuses to aid others in peril violated any legal duty?

Text writers and commentators provide other hypothetical situations. A woman's dress catches fire; water is close by; a man only looks on and laughs.[1] An intoxicant falls face downwards into a puddle of water; he is about to suffocate. Lifting his head to one side would save him, but another man who saw him fall lets him lie.[2] The common law's inflexible dichotomy of legal rules and moral precepts has allowed but one answer to the question of liability for such failure to render aid. Human beings, all of whom are involved in the bitter struggle for existence, have no legal duty to aid others, so the courts have said; and judges take no notice of a defendant's refusal to act benevolently.

"No action will lie against a spiteful man who, seeing another running into a position of danger, merely omits to warn him."[3] In this and similar language, courts lay down the common law rule. Frequently cited to show that there is no duty are the words of Chief Justice Carpenter in *Buch v. Amory Manufacturing Co.,* where the court laid down the broad rule:

> ". . . With purely moral obligations the law does not deal. For example, the priest and Levite who passed by on the other side were not, it is supposed, liable at law for the continued suffering of the man who fell among thieves, which they might, and morally ought to have, prevented or relieved. Suppose A standing close by a railroad, sees a two-year-old babe on the track, and a car approaching. He can easily rescue the child, with entire safety to himself, and the instincts of humanity require him to do so. If he does not, he may, perhaps, justly be

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[1] Bentham, An Introduction to the Principles of Morals and Legislation (Rev. ed. 1907) 323.

[2] *Ibid.* See also Ames, *Law and Morals* (1908) 22 Harv. L. Rev. 97, 112.

[3] Gautret v. Egerton, L. R. 2 C. P. 371, 375 (1867).

> styled a ruthless savage and a moral monster, but he is not liable in damages for the child's injury, or indictable under the statute for its death . . ."[4]

The court's words are an apt illustration of a frequent tendency, that of giving the rule without stating the reasons for it. Perhaps the explanation for this omission is that this common law principle is so deeply imbedded and so strongly supported by the majority of courts in England and America, that a judge feels he need not elaborate on a rule which is so well settled.[5]

Two fairly recent cases illustrate the questionable extreme to which courts go in applying the common law rule. In *Osterlind v. Hill*,[6] plaintiff's intestate and a friend named Ryan had become inebriated while on a Fourth of July outing. Defendant was engaged in the business of letting boats for hire for pleasure excursions on a large lake; and he rented to plaintiff's intestate and Ryan a rather fragile canoe, even though at the time defendant knew the two men were drunk. The intestate and Ryan succeeded in overturning the canoe, but the intestate held on for some thirty minutes before he became exhausted, lost his hold, and was drowned. During the half hour, intestate called repeatedly to defendant for aid; defendant heard him but made no effort to render aid.

The Massachusetts court asserted that the intestate was not in a helpless position, as was evidenced by the fact that he hung onto the canoe for a half-hour, and that he was able to take steps to protect himself. It stated further that defendant violated no legal duty by renting a canoe to an intoxicant; and on the crucial point in the case, the court said only that, "The failure of the defendant to respond to the intestate's outcries is immaterial. No legal right of the intestate was infringed."[7] Once again, for the rule, no reason is given.

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[4]69 N. H. 257, 260, 44 Atl. 809, 810 (1898).

[5]There are many other cases in which the courts have presumed the conclusion, and have consequently failed to elaborate. The court in *People v. Beardsley*, 150 Mich. 206, 113 N. W. 1128 (1907), says, in quoting Mr. Justice Field in *United States v. Knowles*, 26 Fed. Cas. 800, No. 15,540 (N. D. Cal. 1864), ". . . In the absence of such obligations, it is undoubtedly the moral duty of every person to extend to others assistance when in danger, . . . and, if such efforts should be omitted by any one when they could be made without imperiling his own life, he would by his conduct draw upon himself the just censure and reproach of good men; but this is the only punishment to which he would be subject by society. . . ." 113 N. W. at 1131.

A recent statement shows the same trend: "But no one is obliged by law to assist a stranger, even though he can do so by a mere word, and without the slightest danger to himself." Silva v. Providence Hospital of Oakland, —— Cal. ——, 97 P. (2d) 798, 804 (1940).

[6]263 Mass. 73, 160 N. E. 301 (1928).

[7]160 N. E. at 302.

The Georgia court in 1930, in a case similar to *Osterlind v. Hill,* pursued the common law doctrine to its extreme and reached a harsh result. In *Ficken v. Southern Cotton Oil Co.,*[8] plaintiff's intestate was employed by defendant to paint a water tank. While sitting on a seat suspended from the tank by ropes and pulleys, plaintiff's intestate fainted and fell off the seat but was caught in the ropes and pulleys. The intestate was dangling in the air in imminent danger of falling, totally unable to help himself. Defendant became aware of his predicament, but did nothing when other persons came upon the premises in order to aid the stricken intestate. While these volunteers were working to bring him down, the intestate fell and was fatally injured.

Suit was by the intestate's wife, and the Georgia court held the defendant not liable for his failure to aid the intestate. The court's reason was not lengthy: "No legal duty rests upon a person to exercise any degree of care or diligence to protect another against the hazards of a perilous situation brought about through no fault of the former."[9]

These two decisions illustrate the extreme at which courts, once they have inflexibly laid down the common law rule, must logically arrive, whenever the particular set of facts confronts them. It is to be noted that in both cases, there was a definite relationship between defendant and intestate; and the courts could have found very easily a duty owed by defendant because of the relationship. In *Osterlind v. Hill,* defendant was lessor of the canoe and intestate was lessee; and the fact that defendant was aware of intestate's inebriation makes the relation *a fortiori.* Defendant was master and intestate was servant in the *Ficken* case; and the peril of the intestate resulted directly from the course of his employment. The parties in both cases were far from being strangers; the relationships involved consisted of mutual rights and duties, and in each it would have been only reasonable to require defendant to attempt to render assistance to the imperiled intestate.

What, then, is the reason, so rarely articulated by the courts, behind the common law rule? In a legal system inhibited by *stare decisis,* the sheer novelty of holding otherwise is enough to keep the average judge in check. A valid objection, however, is the difficulty of proving the defendant's fault, of proving that he was wilful in his refusal and not merely incapable of aiding.[10] There is the difficulty of showing that the endangered's need of assistance outweighs a defendant's duty else-

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[8]40 Ga. App. 841, 151 S. E. 688 (1930).
[9]*Ibid.*
[10]POUND, LAW AND MORALS (2d ed. 1926) 68-69.

where.[11] Perhaps Dean Ames' words reveal the sentiment of most courts:

> ". . . he [the man who declined to aid] was in no way responsible for the perilous situation, he did not increase the peril, he took away nothing from the person in jeopardy, he simply failed to confer a benefit upon a stranger . . ."[12]

II. Modification of the Common Law Doctrine.

The rigidity of the common law rule has incurred the condemnation of many competent writers and commentators.[13] It would be difficult to find a better example of the contest of the legal writers versus the courts, than is shown by the divergence of views on this question of moral duty. The great majority of courts have held that there is no duty to aid others; while, conversely, few legal writers have failed to criticize the common law doctrine.[14] The courts and writers thus seem to be squarely at issue, but the din of battle cannot conceal the fact that the courts are wavering.

Jeremy Bentham, who devoted a lifetime to the study of man's relation with his fellow man, asks: "Why should it not be the duty of every man to save another from mischief, when it can be done without prejudicing himself, as well as to abstain from bringing it on him?"[15] Bentham was here concerned chiefly with the proper legislation to be enacted in the state's regulation of human relations, and he would have a refusal to aid others classified as a "simple corporal injury."[16] The

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[11] *Ibid.*

[12] Ames, *Law and Morals* (1908) 22 HARV. L. REV. 97, 112.

Cases asseverating the traditional common law rule are legion. See, in addition to cases already cited, Toadvine v. Cincinnati N. O. & P. Ry. *et al.*, 20 F. Supp. 226 (E. D. Ky. 1937); Matthews v. Carolina & N. W. Ry., 175 N. C. 35, 94 S. E. 714 (1917); Herd v. Wearsdale Steel Corp. [1913] 3 K. B. 771; Riley v. Gulf, C. & S. F. Ry., —— Tex. ——, 160 S. W. 595 (1913); Randolph's Adm'r v. Snyder, 139 Ky. 159, 129 S. W. 562 (1910); Union Pacific Ry. v. Cappier, 66 Kan. 649, 72 Pac. 281 (1903); King v. Interstate Consolidated Ry., 23 R. I. 583, 51 Atl. 301 (1902); Hurley v. Eddingfield, 156 Ind. 416, 59 N. E. 1058 (1901); Allen v. Hixon, 111 Ga. 460, 36 S. E. 80 (1900). See also Notes (1903) 69 L. R. A. 514; 38 Am. Jur., Negligence §16.

Mr. Justice Holmes, commenting briefly in THE COMMON LAW, says that a man has a perfect right to stand by and see his neighbor perish for want of his help. HOLMES, THE COMMON LAW (1881) 278.

[13] Leading articles on the problem are Bohlen, *The Moral Duty to Aid Others as a Basis of Tort Liability* (1908) 56 U. OF PA. L. REV. 217, 316; Ames, *Law and Morals* (1908) 22 HARV. L. REV. 97; Bruce, *Humanity and the Law* (1911) 73 CENT. L. J. 335.

[14] HOLMES, THE COMMON LAW (1881) 278; POLLOCK, THE LAW OF TORTS (13th ed. 1929) 450.

[15] BENTHAM, AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION (Rev. ed. 1917) 323.

[16] 1 BENTHAM, WORKS (Bowring's ed. 1843) 164.

reasoning he uses in his sample penal code refers to crimes, but it is highly pertinent to an individual's liability in civil actions:

> "Every man is bound to assist those who have need of assistance, if he can do it without exposing himself to sensible inconvenience. This obligation is stronger, in proportion as the danger is the greater for the one, and the trouble of preserving him the less for the other . . . the crime would be greater if he refrained from acting not simply from idleness, but from malice or some pecuniary interest."[17]

"Revolting" is the word generally applied to the conduct of the spectator who stands by and fails to render aid to a person in peril,[18] and the word may be equally well applied to the decisions of the courts which deliberately refuse to relate the basis of justice to ethical and moral precepts. There is no justification for this wilful blindness by the courts, and the opposition of law and morals must be rejected where necessary.[19]

The difficulties of establishing a working rule are not as insurmountable as many first believe. The crux of the problem is the ease or hardship with which a spectator may relieve the peril of another; it is always a question of degree, and obviously the law should not require one to give his life in an effort to aid another. But just as obviously, in an instance where a bystander would be put to only trifling inconvenience to save another, the law should require him to make a reasonable effort.[20]

Shackled by precedent, and thus lacking the freedom to inquire and criticize which the text writers and commentators so happily possess, the courts have stuck dogmatically to the common law doctrine; but the repeated pounding by the writers is beginning to tell. In nearly all of the cases showing a more liberal viewpoint, the courts have not been able to promulgate flatly the coincidence of the legal and moral duty, but have preferred to find a relation between defendant and plaintiff, from which relation a duty could be inferred. The typical relation is that of master and servant, or carrier and passenger.[21]

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[17] *Ibid.*

[18] PROSSER, HANDBOOK OF THE LAW OF TORTS (1941) 193; Ames, *Law and Morals* (1908) 22 HARV. L. REV. 97, 112.

[19] POUND, LAW AND MORALS (2d ed. 1926) 69.

[20] Ames, *op. cit. supra* note 18, at 113. See also CARDOZO, THE PARADOXES OF LEGAL SCIENCE (1928) 25-26.

[21] Master and servant, Carey v. Davis *et al.*, 190 Iowa 720, 180 N. W. 889 (1921); Hunicke v. Meramec Quarry Co., 262 Mo. 560, 212 S. W. 345 (1919); Raasch v. Elite Laundry Co., 98 Minn. 357, 108 N. W. 477 (1906). Carrier and passenger, Southern Ry. v. Sewell, 18 Ga. App. 544, 90 S. E. 94 (1916); Layne v. Chicago & A. Ry., 175 Mo. App. 34, 157 S. W. 850 (1913); Pate v. Tar Heel Steamboat Co., 148 N. C. 571, 62 S. E. 614 (1908).

For the more liberal rule holding a railroad liable for its servants' negligence

Decided by the Supreme Court of Minnesota in 1907, *Depue v. Flatau et al.* is significant for the broad rule contained in the formula which the court applied.[22] Plaintiff Depue was a cattle buyer and called on defendants at their home in order to inspect their cattle. Night fell before plaintiff could complete his business, and defendant Flatau Sr. invited plaintiff to remain for supper. After finishing the meal, Depue prepared to depart but suddenly became ill while standing in defendant's living room. Flatau Sr. and Flatau Jr. did not aid him in putting on his buffalo coat and overshoes; but Flatau Jr. escorted plaintiff out of the house, helped him into his carriage, and, when he saw plaintiff was too weak to hold the reins, threw them around his neck and started the carriage home. A short distance down the road, Depue became weaker and fell from the carriage into the snow; he lay near the road during the night and a passer-by found him badly frozen the next morning.

The decision holding defendants liable for their conduct is rather to be expected and is not as significant as are the words used by the Minnesota court in arriving at that decision. Without doubt, "the affirmative act of defendants which exposed plaintiff to injury, was the basis of the decision."[23] But important is the fact that defendants contended that their only duty to care for the stricken Depue was moral, which contention the Minnesota court overruled. The defendants relied on *Union Pacific v. Cappier*,[24] in which the court used the typical "Good Samaritan" illustration to show the distinction between legal and moral duty; but the Minnesota court asserted that this principle was not necessarily applicable to the problem raised by the *Depue* case. It is true that the court made clear the fact that its decision was predicated on the relation between defendants as hosts and plaintiff as invitee; but the court's statement of the general rule is interesting:

> "Whenever a person is placed in such a position with regard to another that it is obvious that, if he does not use due care in his own conduct, he will cause injury to that person, the duty at once arises to exercise care commensurate with the situation in which he thus finds himself, and with which he is confronted, to avoid such danger; and a negligent failure to per-

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in failing to stop and care for trespassers struck by a train, when the servants know of the injury to the trespasser, see Whitesides v. Southern Railway, 128 N. C. 229, 38 S. E. 878 (1901). *Contra* and illustrative of the influence of the usual common law doctrines are Union Pacific Ry. v. Cappier, 66 Kan. 649, 72 Pac. 281 (1903), and Griswold v. Boston & M. Ry., 183 Mass. 434, 67 N. E. 354 (1903).

[22]100 Minn. 299, 111 N. W. 1 (1907).

[23]Mazey v. Loveland, 133 Minn. 210, 212, 158 N. W. 44, 45 (1916), citing the *Depue* case.

[24]66 Kan. 649, 72 Pac. 281 (1903).

> form the duty renders him liable for the consequences of his neglect."[25]

The rule is of course general and may be interpreted as a court desires, since a determination must be made in every instance whether or not a defendant's conduct has been an example of "due care." But one must consider not only the objections arising from the breadth of the rule, but also the advantages to be obtained from its flexibility, if a court desires to hold that a defendant's breach of a moral duty has also been a legal violation. The Minnesota court adds that the rule "applies with greater strictness to conduct towards persons under disability, and imposes the obligation *as a matter of law, not mere sentiment,* (my italics) at least to refrain from any affirmative action that might result in injury to them."[26] *Depue v. Flatau,* then, is a step in the right direction.[27]

Rather analogous to the problem involving the duty to save others on land is the problem of whether there is a duty to save a shipwrecked or stranded individual on sea. Perhaps one might argue that there is more difference than similarity, that seafaring men expose themselves to great hazards at nearly all times, and that their mutual danger welds them into a closely-knit group, each member of the group having a much stronger duty to care for the other members than he would have toward outsiders. But the distinction between life on land and on the sea is more apparent than real. Human beings are dealing with other humans in either place; and bitterness and danger are man's fate, even though there is no deep green sea beneath him.

Prior to 1912, most jurisdictions in America held to the rule that, on the sea, there is no duty to rescue a person in peril.[28] In 1910, how-

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[25]100 Minn. at 301, 111 N. W. at 2.

[26]*Id.* at 303, 111 N. W. at 3.

[27]For additional comment on, and later interpretation by the courts, of Depue v. Flatau, see Ayres & Co. v. Hicks, 219 Ind. 348, 40 N. E. (2d) 334 (1942); Roadman v. Johnson Motor Sales *et al.*, 210 Minn. 59, 297 N. W. 166 (1941); Carey v. Davis *et al.*, 190 Iowa 720, 180 N. W. 889 (1921); Farrell v. Minneapolis & R. R. Ry., 12 Minn. 357, 141 N. W. 491 (1913); Adams v. Chicago Great Western Ry., 156 Iowa 31, 135 N. W. 21 (1912). See also (1907) 5 MICH. L. REV. 710.

Note the words of the Missouri court, in referring to the *Depue* case: ". . . it has been declared by courts of high authority that the precepts of humanity alone, unattended by any other obligation whatever, enjoin the duty of ordinary care upon one knowing the condition of a sick person to look out for the safety and welfare of those who are thus enfeebled . . ." Trout v. Watkins Livery & Undertaking Co., 148 Mo. App. 621, 130 S. W. 136 (1910).

[28]"The whole theory of salvage is predicated upon the proposition that by the general admiralty law there is no legal duty to aid a thing or person who is in distress." ROBINSON, HANDBOOK OF ADMIRALTY LAW IN THE UNITED STATES (1939) 722. See The Mishawaka, 10 F. Supp. 722 (S. D. Me. 1935); The Admiral Evans, 286 Fed. 442 (W. D. Wash. 1923); The Eastland, 262 Fed. 535 (N. D. Ill. 1919); The Annie Lord, 251 Fed. 157 (D. Mass. 1917); The Mulhouse, 17 Fed. Cas. 963, No. 9,910 (S. D. Fla. 1859); The Emblem, 8 Fed. Cas. 611, No. 4,434 (D. Me. 1840); Mason *et al.* v. Ship Blaireau, 2 Cranch 240 (U. S. 1804).

ever, twenty nations meeting at Brussels signed the International Salvage Treaty; and in 1912, an important provision of this treaty was enacted into law in the United States. This law of August 1, 1912, provided:

> "The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, crew, or passengers, render assistance to every person who is found at sea in danger of being lost; and if he fails to do so, he shall upon conviction, be liable to a penalty of not exceeding $1,000 or imprisonment for a term not exceeding two years, or both.
>
> "Salvors of human life, who have taken part in the services rendered on the occasion of the accident giving rise to salvage, are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo, and accessories."[29]

The Act clearly places an affirmative duty on the master of a vessel when he is aware of another's distress, but significant is the provision allowing the master of the vessel to exercise his own judgment in deciding whether an attempted rescue would burden him with unreasonable danger. Thus giving latitude to the person on whom the duty is to be placed harmonizes plainly with Bentham's penal code.[30] The Act has naturally met with some criticism from those who prefer to maintain the common law *status quo*,[31] but it can be a valuable guide for legislatures which can be persuaded to alter the common law doctrine and establish a working rule applying to activities of humans on land. The Act of 1912 does not confer on the injured individual any right of private action against the master of the vessel, nor does it give any right of action

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[29] 37 STAT. 242 (1912), 46 U. S. C. A. §§ 728, 729 (Supp. 1943).

[30] 1 BENTHAM, *op. cit. supra* note 16, at 164.

[31] ROBINSON, *op. cit. supra* note 27, at 723-24: "The legislation at best seems largely to be a humanitarian gesture. Without it, gallant rescues were made in the past. Since its enactment, the master lives under a threat. He has a heavy burden in deciding whether he can give aid 'without serious danger' to his own vessel, its crew and its passengers . . . He must necessarily be the sole judge, and he must make his decision on the spot and under the conditions then prevailing. Sometimes his passengers, and the newspapers ashore have undertaken to tell him what he might have done, and he may be called upon to face an official armchair review when he comes ashore. In the Gilbertian sense, his life is not a happy one."

Gallant rescues may have been made in the past without the law; but no doubt there were in the past ungallant refusals to rescue also. Furthermore, the master would hardly be under any threat greater than that with which he is already burdened by taking out the ship; and it is a poor rule which sacrifices the life of a person in distress in order that the master may be free from worry.

See also, for general comment on the Act of 1912, The Eastern Glen, 11 F. Supp. 995 (S. D. N. Y. 1935); Atlantic Transport Co. v. United States, 42 F. (2d) 583 (Ct. of Claims 1930); The Shreveport, 42 F. (2d) 524 (E. D. S. C. 1930); Magnolia Petroleum Co. v. National Oil Transport Co., 281 Fed. 336 (S. D. Tex. 1922).

against the ship's owner;[32] but it seems logical that any legislation on the subject should include a civil action for recovery of damages.

There have been other instances of rejection of the common law rule. In *Eckert v. Long Island Railroad*,[33] plaintiff's intestate was standing by defendant's track while conversing with a friend; defendant's train was approaching. Suddenly a small child, three or four years old, crawled on the track in front of the train. The intestate's reaction was instantaneous. He reached the child and threw it clear but was struck and killed by defendant's engine. Action for damages was brought by the intestate's wife, and the court allowed her recovery. On the issue of the intestate's contributory negligence, the jury found for the plaintiff; and the court made this significant statement:

> ". . . he [the intestate] owed a duty of important obligation to this child to rescue it from its extreme peril, if he could do so without incurring great danger to himself. . . . It was his duty to exercise his judgment as to whether he could probably save the child without serious injury to himself . . ."[34]

Thus the New York court is saying that the intestate had a legal duty to make a reasonable effort to save the child. The "duty of important obligation" cannot be interpreted to mean only a moral one. It is very likely that, had the intestate been confronted with only a moral duty, his action in dashing in front of a speeding train would have been considered by the court and jury as contributory negligence. Indeed, the English courts, in extracting the principle of this case, have conceded that the *Eckert* decision held the intestate under a legal duty to render aid to one so helpless.[35]

American courts which have adopted the common law are very much disinclined to discard a fundamental principle such as this; the omniscience

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[32]In Warshauer v. Lloyd Sabaudo, 71 F. (2d) 146 (C. C. A. 2d, 1934), defendant's agent, master of the vessel, refused to rescue plaintiff when he was stranded on the ocean in a gasless motor boat. Action was brought for injury from exposure against defendant as owner of the vessel. The court held him not liable, for the master's "moral obliquity" was not imputable to the owner of the ship. The court added: 'The question chiefly debated was whether the common law or the law of the sea recognizes the existence of a legal duty coextensive with the universally admitted moral duty to rescue a stranger from peril, when this can be done without risk to the one called on for help. This interesting problem we pass by as unnecessary to the decision . . ." *Id.* at 147.

[33]43 N. Y. 502, 3 Am. Rep. 721 (1871).

[34]3 Am. Rep. at 723.

[35]Brandon v. Osborne Garrett & Co. [1924] 1 K. B. 548, where Swift J. stated that he could not go as far as the majority of the New York court did in the *Eckert* case "in holding that there is a legal duty upon a person to save life if he can." *Id.* at 554.

He adds, however, that there is no legal duty to *risk one's life* to save a stranger from peril, but he does not say that there cannot be a legal duty to make a reasonable effort, without unduly endangering oneself, to rescue another. *Id.* at 554, 555.

of the common law demands genuflection, and American judges naturally prefer to follow, after the break with tradition has been made by others. Thus it is important to observe that, in the land which spawned the progenitor of the American rule, there are protests against continuing the doctrine. The English case of *Queen v. Instan*[36] is indicative of the new trend. There, defendant Kate Instan, a woman between thirty and forty years of age and single, and a niece of the deceased Ann Hunt, was brought before the Queen's Bench Division on a charge of feloniously killing her aunt. Defendant and deceased had lived together for some time prior to the aunt's death. About ten days before her death, the aunt was seized with gangrene in the leg and was unable to move or aid herself in any fashion. Defendant did nothing to help her; she took in food supplied by merchants and paid for it with the aunt's money, but defendant gave her aunt none of the food, administered no medical care, told no one of her fatal condition, and allowed her to die. The evidence showed that death was accelerated by the defendant's neglect.

Defendant's counsel contended for her that she had no duty either by statute or common law to administer in any fashion to the deceased aunt, for the aunt was a person of full age, the head of the household, and one who had been able to take care of herself. The defense asserted that such duty to aid the deceased could have arisen only from an undertaking, either express or implied, neither of which there was in the case. The Queen's Bench unanimously overruled the defense, sustained the conviction of defendant; and the words of Lord Coleridge, in the only opinion delivered, are strong:

> "It would not be correct to say that every moral obligation involves a legal duty; but every legal duty is founded on a moral obligation. A legal common law duty is nothing else than the enforcing by law of that which is a moral obligation without legal enforcement. There can be no question in this case that it was the clear duty of the prisoner to impart to the deceased so much as was necessary to sustain life of the food which she from time to time took in, and which was paid for by the deceased's own money for the purpose of the maintenance of herself and the prisoner; it was only through the instrumentality of the prisoner that the deceased could get food. There was, therefore, a common law duty imposed upon the prisoner which she did not discharge. . . . There is no case directly in point; but it would be a slur upon and a discredit to the administration of justice in this country if there were any doubt as to the legal principle, or as to the present case being within it. The prisoner was under a

[36] [1893] 1 Q. B. 450.

moral obligation to the deceased from which arose a legal duty towards her; that legal duty the prisoner has wilfully and deliberately left unperformed. . . ."[37]

There may be those who argue that *Queen v. Instan* does not repudiate the common law rule holding no duty to aid a stranger, that the facts of the case show a relation between the parties from which a duty was inferred. But such rear guard action, according to Judge Cardozo, is mere casuistry. Indeed, Hawkins J., in the course of discussion before the court, inquired whether a contract to provide sustenance could not be inferred from the circumstances of the case. Defense counsel's answer to him was that there was no implied contract to raise a legal duty, that the case was nothing more than a duty of "imperfect obligation." Lord Coleridge answered both Hawkins J. and the defense, by unequivocal phrases in his opinion. He could easily have based his holding on a fiction such as implied contract between defendant and deceased, or he could have stressed the relation of aunt and niece living together in the same house. But he did neither of these. Sophists may quibble, but the rationale of his ruling was the fact that defendant owed a moral duty to deceased, and out of this moral obligation arose the legal duty which was violated.

III. Conclusion.

It is glibly repeated that "law *is* justice," as if in hope that saying it many times will prove its truth. The sad truth is that law is *not* justice, not always, nor can it ever be. But a realization of its shortcomings is no justification for a refusal to attempt to overcome them. The struggle must never be abandoned. Not justice attained, but the struggle for the most justice for the greatest number of people is the essence of the law. In the past, common law courts have surrendered too quickly when confronted with the general problem of applying morals to law, and when confronted with the particular problem of requiring individuals to be decent to other humans by aiding them in peril. They have said that the law does not deal with the common teachings of humanity, which sounds to us today like a weird distortion of the meaning of law. It should have sounded just as queer several hundred years ago.

Perhaps the common law division of law and morals suited the day in which it was born and in which it rose to ascendancy in the law; perhaps it fitted the environment and mores of that time. But its promulgation in the twentieth century world can lead, and in truth seems to be leading, to nihilism or anarchy. Human virtues and perversities may be universal and enduring; but the bald fact remains that even the most

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[37] *Id.* at 453, 454.

sapient of the common law judges did not conceive of today's world. *Stare decisis* quickly becomes farcical when pursued to its logical extreme in a milieu the essence of which is change. The law's end is not an abstruse concept such as justice, but it is the most happiness for the most people. Laying down the rule that one must help a stranger in trouble is not a universal panacea, but in the wake of its adoption will follow rejection of the entire doctrine that one may live and give no consideration to the welfare of his fellows, and the establishment of the precept that the law will compel, as a minimum, certain affirmative acts of kindness in certain instances. Such is not moral fantasy; it is but stark realism, an attempt to harmonize legal rules with the mores of the community, which are the law regardless of what the courts say.

Huey B. Howerton, Jr.

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Creekmore, H. H., Jackson
Creekmore, Rufus, Jackson
Creekmore, Wade H., Jackson
Crisler, John W., Clarksdale
Crocker, Rowell T., Dayton, Ohio (Box 371)
Culkin, J. H., Vicksburg
*Cunningham, E. Hugh, Jackson
*Cunningham, F. W., Booneville
Cunningham, J. E., Booneville
Cunningham, James A., Booneville
Currie, Alexander, Hattiesburg
Currie, E. J., Hattiesburg
Currie, George W., Hattiesburg
Currie, Homer, Raleigh
Currie, Neil T., Hattiesburg
*Curtis, Chester Harris, Clarksdale
Cutrer, R. W., Magnolia
Dabney, F. Y., Vicksburg
Dabney, J. B., Vicksburg
Dabney, L. B., Vicksburg
Dale, R. H., Columbia
Dale, Sebe, Columbia
Dalton, Terry J., New York (641 Washington St.)
Daniel, G. Odie, Starkville
*Daniel, Jo. H., Lambert
*Darden, Tom Leslie, New Albany
Davis, Edwin D., Port Gibson
Davis, E. W., Port Gibson
*Davis, Howard Q., Indianola
Davis, James E., Hattiesburg
Davis, James L., Jackson
*Davis, Jefferson, Jackson
Davis, S. F., Indianola
Davis, T. B., Columbia
*Davis, Thomas Baker, Van Vleet
Davis, T. W., Jr., Purvis

*Armed Forces

Daws, J. H., DeKalb
Day, J. O., Clarksdale
Day, Lewis H., Dayton, Ohio (c/o Chamber of Commerce)
Day, R. H., Decatur
Dean, Hermon, Canton
Dean, J. F., Senatobia
*Deaton, Joe Sanford, Plantersville
*Deavours, Burns M., Laurel
Deavours, Jack, Laurel
Dedeaux, O. J., Gulfport
*Dees, Anse, Philadelphia
Denman, R. D., Greenwood
Dent, E. L., Collins
Denton, C. L., Meridian
Dent, J. R., Gulfport
Dent, R. L., Vicksburg
*Denton, P. L., Marks
*Diamond, Harry, Greenwood
*Dickson, Archie L., Jr., Jackson
Dinsmore, R. R., Jackson
*Dixon, T. Vincent, Senatobia
*Doggett, Grover, Laurel
*Dore, Donald Edward, Jackson
Dossett, M. D., Beulah
*Douglas, P. Lanier, Starkville
*Dovith, Melvin, Belzoni
*Doxey, Hindman, Holly Springs
Doxey, Wall, Holly Springs
Drake, Joseph Turpin, Jr., Port Gibson
Ducander, Chas., (no address)
Dudley, Colbert, Jackson
Dulaney, J. W., Tunica
*Dunn, Edwin A., Meridian
*Dunn, J. Thomas, Memphis
Dunn, Vardaman S., Jackson
Dwyer, Robert E., Greenville
Dyke, Herbert H., Laurel
Eager, P. H., Jr., Jackson
Easterling, Lamar F., Jackson
Eastland, J. O., Washington, D. C.
*Eaton, B. E. Jr., Gulfport
*Eaton, James Samuel, Gulfport
*Eddins, Joseph A., Rosedale
Edmonds, Henry, Jackson
Edwards, A. K, Mendenhall
*Edwards, Allan T., Jackson
Edwards, J. P., Mendenhall
Ellis, W. A., Carthage
Engle, C. F., Natchez
Enochs, Dewitt C., Jackson
Ethridge, F. K., Meridian
Ethridge, Geo. H., Jackson
*Ethridge, Geo. M., Jr., Meridian
Ethridge, W. N., Oxford
Ethridge, Wm. N. Jr., Jackson
Eudy, J. E., Eupora
Evans, H. H., Gulfport
Evans, W. J., Calhoun City
Everett, Frank E., Indianola
*Everett, Frank E. Jr., Vicksburg
Everett, Robert D., Ruleville
Everett, W. M., Hickory
Ewing, Jack, Jackson
Ewing, T. G. (col.) Vicksburg
Fair, Chas. D., Louisville
Falkner, J. W. T., Oxford
Fant, Herbert M., Sardis
Fant, Lester G., Holly Springs
*Fant, Lester G., Jr., Holly Springs
*Farese, John A., Ashland
Farr, Paul H., Prentiss
*Farrell, Herbert D., Taylorsville
Featherstone, F. M., Indianola
*Fedric, Wm. Henry, Grenada
*Feduccia, Joseph C., Cleveland
*Feibelman, Cedric L., Jr., Vicksburg
Felts, Holland O., Greenville
Finch, Henry L., Laurel
Finch, J. D., Iuka
Finch, J. S., Booneville
Finley, J. A., Tupelo
Fischel, E. C., Hattiesburg
Flowers, J. N., Jackson
Floyd, Earle N., Jackson
*Floyd, Jason H., Senatobia
Floyd, J. C., Meridian
Floyd, L. R., Magee
*Fly, Henry A., Yazoo City
Fontaine, J. B., Pontotoc
Fontaine, W. B., Jackson
*Foote, Lawrence Y., Hattiesburg
Ford, Evon A., Taylorsville
Ford, E. J., Pascagoula
*Ford, E. J., Jr., Gulfport
Ford, J. I., Pascagoula
*Ford, Wm. Reynolds, Taylorsville
Forman, J. M., Indianola
Fountain, D. C., Jackson
*Fox, John H., University
Franklin, J. B., Jackson
*Franklin, Lester, Jr., Jackson
Franks, Donald, Booneville
*Frey, M. M., Jackson
Friend, Joe N., Jackson
Frierson, John F., Columbus
Fuller, Henry H., Laurel
*Fulton, Aubrey D., Jackson
*Gailard, G. Rayner, Washington, D. C.
*Galloway, Chas. R., Gulfport
Galloway, J. F., Gulfport
Gandy, Edythe Evelyn, Washington D. C.
*Gandy, George, Collins
Gardner, Albert S., Jr., Yazoo City

*Armed Forces

Gardner, Hanun, Gulfport
*Gardner, Hanun B., Jr., Gulfport
Gardner, Tom M., Gulfport
Gardner, A. H., Joplin, Mo. (716 Frisco Bldg.)
Garner, Boyce Lee, Hernando
Garner, Martin, Tunica
Garraway, J. T., Purvis
*Gartin, Carroll, Laurel
*Gary, W. D., Eupora
*Gaston, Chester Davis, Columbus
Gautier, H. W., Pascagoula
*Gee, Wm C., Lambert
Gee, W. P., Marks
Geisenberger, W. A., Natchez
Genin, R. L., Bay St. Louis
Gerald, Eugene, Leland
Gerald, Martha Wilson, Jackson
Gex, Lucien M., Bay St. Louis
Gex, W. J., Bay St. Louis
Gholson, Daniel P., Holly Springs
Gholson, Mary Caruthers, Port Gibson
Gibson, C. E., Monticello
Gilbert, V. W., Meridian
Gillespie, H. B., Raymond
Gillespie, Hugh B., Jr., Raymond
Gillespie, R. G., Meridian
*Gilliam, L. Alex, Jr., Memphis (3525 Oakley St.)
Gipson, J. R., Meridian
Gipson, J. V., Meridian
Glass, D. H., Kosciusko
*Glazier, Herman Cowan, Jr., Clarksdale
Gober, Curtis A., Jackson
Good, V. W., Vicksburg
*Goodman, F. C., Biloxi
*Gordon, Chas. M., Jackson
Gordon, C. T., Liberty
Gordon, Joe D., Liberty
Gordon, Wm. H., Washington, D. C.
*Gore, Ney M., Jr., Marks
Gore, W. E., Jackson
Goss, Roy J., Jackson
Graham, Hardy M., Meridian
Graham, J. H., Meridian
Graham, S. M., Meridian
Grant, Leslie B., Biloxi
Graves, Charles L., Jackson
Greaves, P. D., Gulfport
Green, A. Wigfall, University
Green, B. A. (col.) Mound Bayou
Green, E. H., Cleveland
*Green, Garner W., Jr., Jackson
Green, Garner Wynn, Jackson
*Green, Marcellus C., Jackson
Green, Marcellus, Jackson
Gregory, James T., Forest
Grice, L. E., Crystal Springs
Griffing, Homer B., Meadville
Griffing, R. E., Brookhaven
Griffith, V. A., Jackson
*Guice, Claude W., Fayette
*Guice, Jacob D., Biloxi
*Guice, W. L., Biloxi
*Guider, Ben, Vicksburg
Guynes, J. F., Hazelhurst
Guyton, J. D., Kosciusko
Guyton, T. P., Kosciusko
*Gwin, Lucien C., Natchez
Gwinnup, Harry G., Jackson
Haddock, James H., Philadelphia
*Hafter, Jerome S., Greenville
*Hairston, Charles C., Jr., New Augusta
*Hakes, Doric D., Rolling Fork
Hall, Edward C., Jackson
*Hall, Francis L., Tupelo
Hall, Lee D., Columbia
*Hall, Stanton A., Hattiesburg
Hall, Toxey, Columbia
Hamilton, George S., Jackson
*Hamlin, James E., West Point
*Hamlin, Wilbur G., West Point
Hammond, Kelly J., Columbia
Hamner, W. M., Greenwood
Handy, George Stuart, Natchez
Hannah, T. C., Hattiesburg
*Hannon, John, Raymond
Haralson, William, Hattiesburg
Hardy, W. F., Jackson
Harmon, Francis S., New York (28 West 44th St.)
Harmon, John M., Union
*Harmon, Hunter, Meridian
Harper, A. Y., Jackson
*Harper, Charles Edward, McComb
Harper, Jack Evans, Jr., Indianola
Harper, W. R., Jackson
*Hartford, Robert W., Jackson
Hartley, T. A., St. Louis, Mo. (1212 McMorrow Ave., Richmond Heights, Mo.)
Harty, Emmet, Greenville
Hathorn, C. V., Columbia
Hathorn, F. C., Jr., Hattiesburg
Hathorn, Herbert C., Hattiesburg
*Hathorn, Hoy, Louisville
Hatten, W. J., Sumrall
Hauberg, Robert E., Jackson
Hawkins, George Ben, Flora
Haynes, M. Paul, Baldwyn
Hedgepeth, T. H., New Orleans, La. (Federal Land Bank)
Heidelberg, H. P., Pascagoula
Heidelberg, R. W., Hattiesburg

*Armed Forces

Heiss, J. L., Gulfport
Heiss, J. L., Jr., Gulfport
Hendrick, Leon F., Jackson
Hendrix, Thomas D., Jackson
*Hengen, Louis, Biloxi
Hennington, Lamar, Hattiesburg
Henley, W. S., Hazlehurst
Henry, W. A., Yazoo City
Herring, Geo. B., Canton
Herring, H. Lee, Ruleville
Hewes, Wm. G., Gulfport
Hewitt, F. D., McComb
*Hewitt, Wm. H., Jackson
*Hewitt, W. Wilson, Summit
Hezel, Henry M., Cleveland
Hicks, Graham H., Jackson
Hill, C. E., Jackson
Hill, Tillis, Lucedale
Hillman, J. B., Philadelphia
Himelstein, Ben, Moorhead
*Hobbs, H. W., Jackson
Hoffman, C. L., Gulfport
*Holcomb, Pascal D., Clarksdale
Hollis, J. O., Carthage
Holloman, John H., Columbus
Holloman, Frank C., Columbus
Holmes, D. B., Jr., Meridian
Holmes, E. R., Jr., Jackson
Holmes, F. C., Jr., Hernando
Holmes, F. C., Hernando
Holmes, G. M., Aberdeen
Holmes, Herbert, Senatobia
Holmes, H. T., Winona
Holmes, J. G., Yazoo City
Holmes, John S., Yazoo City
Hood, Josephine, Canton
*Hopkins, Hugh Sam, Jackson
Hopkins, Jos. W., Clarksdale
Hopkins, Thos. G., Louisville
Hopper, H. A., Corinth
Horan, John, Water Valley
Horan, Leo, Jackson
Hornsby, Oliver, Natchez
Horton, Cowles, Grenada
*Horton, Frank Collins, Grenada
Hosey, G. W., Laurel
Houghens, John H., Jackson
Houston, D. W., Sr., Aberdeen
*Houston, D. W., Jr., Aberdeen
Howard, Perry W. (col.) Washington, D. C. 613 F St., N. W..
Huff, J. Knox, Forest
Huff, Thos. M., Carthage (Now in Washington—Room 10, U. S. Supreme Court Bldg.)
*Huff, Wm. A., Forest
*Hughes, Daniel Clyde, Corinth
*Hughes, Phillip D., Meridian
Hulen, Mrs. Elizabeth W., Jackson
Hunt, F. N., Hattiesburg
Hunt, Mrs. Nell W., McComb
*Hutchinson, Edw. G., Summit
Hutchison, J. T., Summit
Hutton, J. B., Jr., Jackson
Hymers, George, Louisville, Ky. (633 Federal Bldg.)
Hytken, Robert Milton, Cleveland
Inman, C. E., Jackson
*Inzer, Wm. H., Pontotoc
Jacobson, Gabe, Meridian
Jackson, F. B., Jackson
Jackson, Robert E., Cleveland
*Jackson, Robert Edgar, Jr., Cleveland
Jackson, Wm F., McComb
*Jaggers, Boudie A., Pontotoc
James, Viola Lee, Atlanta, Ga. (711 Glenn Bldg.)
James, W. W., Newton
*Jarrat, Hill, Batesville
Jarvis, R. T., Booneville
*Jeffries, Johnston, De Smet, S. D.
*Jiggets, Louis M., Jackson
Johnson, Alvis C., Union
Johnson, C. E., Union
Johnson, D. R., Batesville
Johnson, Elbert, Indianola
Johnson, H. H., Lexington
Johnson, Joseph E., Batesville
Johnson, O. W. (col.) Prentiss
*Johnson, Paul B., Jr., Hattiesburg
Johnston, Albert Sidney, Jr., Biloxi
Johnston, Means, Greenwood
Johnston, Oscar, Scott
Johnston, Thos. H., Corinth
*Jolly, Bill, Carthage
Jones, A. H., Woodville
*Jones, Bernard M., Jackson
Jones, Bert H., McComb
Jones, C. J., Waynesboro
*Jones, Edward I., Bay St. Louis
Jones, H. F., Belzoni
Jones, James Edward, Jackson
Jones, L. Barrett, Jackson
Jones, Maurice M., Jackson
Jones, P. Z., Jackson
Jones, R. L., Brookhaven
Jones, W. Arlington, Hattiesburg
Jones, W. Roger, Hazlehurst
Joor, J. S., Jr., Rolling Fork
Jordan, R. A., Greenwood
Jordan, Terral A., Hattiesburg
*Joyner, Ernest Love, Jr., Tupelo
*Katz, Andrew D., Hattiesburg
Katzenmeyer, C. Leonard., Vicksburg
Kaufman, Marcus L., Rosedale
Keady, William C., Greenville
*Keaton, Grayson B., Picayune

*Armed Forces

Kellner, Ernest, Greenville
Kellum, Joseph W., Tutwiler
Kelly, R. M., Vicksburg
Kemp, Carroll, Hazlehurst
Kendall, Henry M., Jackson
Kendall, James T., Jackson
Keyer, James H., Natchez
Killian, Joseph Howard, Jackson
*Kimble, Raymond V., Jr., Greenville
Kimbrell, Frank C., San Francisco, Calif. (Apt. 15, 2217 Post St.)
Kimbrough, O. L., Greenwood
*Kimbrough, O. L., Jr., Greenwood
Kimbrough, T. C., University
Kinabrew, Randolph G., Liberty
King, Bee, Mendenhall
King, Benjamin, Hazlehurst
King, S. R., Durant
Kirby, R. H., Clarksdale
Kirschten, Mrs. Elizabeth G., Evanston. Ill. (525 Kedzie)
*Knox, Baxter N., Jr., New Albany
Knox, R. H., Jackson
*Kuykendall, John M., Charleston
Kyle, John W., Sardis
Lackey, Samuel E., Jr., Forest
*Ladner, Hiram Griffin, Jr., Ripley
*Lake, J. A., Jr., Greenville
Lamar, E. L., Calhoun City
*Lamb, Knox, Greenwood
*Lamensdorf, Rolland G., Shaw
Land, John R., Jr., Gulfport
Landman, B. R., Jackson
Landrum, Ralph, Jackson
Latham, W. F., Quitman
Laub, S. B., Natchez
Laughlin, Wm. F., Vicksburg
Lawrence, W. O., Bruce
Leak, H. C., Woodville
*Lee, Gettys, Booneville
Lee, Percy M., Forest
*Leftwich, Frank S., Aberdeen
Lenoir, James J., Arlington, Va. (5217 25th Place, North)
Leonard, R. T., Kosciusko
*Levine, Harold Lee, Clarksdale
*Levingston, Alfred A., Cleveland
*Lewis, Clayton, Philadelphia
Lewis, Meyer A., Jackson
Lewis, T. W., Jr., Columbus
Lindholm, P. B., Lexington
Lindsey, English, Gulfport
*Longle, H. B., Hattiesburg
Lipscomb, Hubert, Jackson
*Lipscomb, L. P. B., Cleveland
Livingston, Edward M., Louisville
*Livingston, Robert, Prentiss
Livingston, W. H., Prentiss
Lobrano, Jack, Meridian
Loerke, Carl F., Jackson
Lofton, W. Milford, Mendenhall
Logan, R. F. B., Hernando
Lomax, William A., Grenada
Long, L. H., Jackson
Long, S. H., Tupelo
Longino, C. S., Clarksdale
*Lord, Richard Guy, Jr., Cleveland
*Lott, W. H., Greenwood
Lott, Y. D., Jr., Mobile, Ala.
*Lotterhos, F. J., Jackson
Love, John Clark, Kosciusko
Love, H. M., Jr., Yazoo City
Love, James S., Jr., Biloxi
Love, Robert T., Greenville
Loving, B. H., West Point
Loving, J. W., Columbus
Lowe, J. T., Tunica
Lowrey, Stovall, Clarksdale
Lowrey, J. T., Gloster
Lucas, W. B., Macon
Luckett, I. Semmes, Clarksdale
Lumpkin, Samuel E., Tupelo
Luper, O. C., Prentiss
Lyell, G. Garland, Jackson
*Lyell, G. Garland, Jr., Jackson
Lyon, Gordon L., Indianola
*Magee, Shirley, Monticello
Magruder, A. F., Palo Alto, Calif. (839 Kipling St.)
Majure, R. S., Newton
Malone, N. H., West Point
*Maloney, John P., Jackson
Manship, Luther, Jackson
Maples, Luther W., Gulfport
*Mars, James M., Philadelphia
*Marsalis, O. M., Drew
Marshall, Carl, Gulfport
Martin, G. L., Prentiss
Raleigh, J. D., Raleigh
Martin, L. L., Macon
*Mashburn, Troy W., Brandon
*Massey, Alton, Kosciusko
*Mauldin, Byrd P., Pontotoc
May, Geo. W., Jackson
Mayfield, Barton, Hattiesburg
Mayfield, J. B., Poplarville
*Maynard, Fletcher Fitzgerald, Clarksdale
Maynard, G. F., Jr., Clarksdale
Maxted, D. J., Pascagoula
McBee, Richard C., Jr., Greenwood
McCants, Allan, Meridian
McClaren, L. S., McComb
McCellan, Thompson, West Point
McClendon, B. B., Jackson
McClintock, Geo. Thos., Jackson
McClure, James, Sardis

*Armed Forces

McColl, D. C., Canton
McCraw, A. B., Philadelphia
McCully, H. E., Louisville
*McCully, J. T., DeKalb
*McDill, Jack, Laurel
*McDonald, Edward Leo, Meridian
*McDonald, Ewell J., Jackson
McDonald, J. O., Dallas, Texas (630 Brooklyn)
McDonald, J. T., Meridian
McElroy, T. H., Oxford
McFarland, Ben H., Aberdeen
McFarland, J. A., Bay Springs
*McFarland, J. A., Jr., Bay Springs
McGee, Roy J., Biloxi
McGee, S. E., Hickory
*McGee, Wm. F., Jackson
McGee, Dan R., Meadville (Washington, D. C.)
McGehee, Harvey, Jackson
McGehee, W. H., Bude
McIlwaine, W. L., Greenville
McIntosh, Hugh, Jr., Collins
McIntosh, L. K., Moss Point
McIntyre, W. E., Brandon
McKeigney, A. F., Eupora
*McKeigney, Alexander, Eupora
McLain, W. G., McComb
*McLean, Geo. Hite, Indianola
McLean, Margaret Yarborough, Jackson
McLellan, Pearl, Greenwood
*McLeod, O. L., Pascagoula
McManus, Dessie E., Gulfport
McMorrough, G. H., Lexington
McNeil, M. S., Hazlehurst
McRaney, A. W., Magee
Meek, George D., Jackson
Melton, Louise, Jackson
Merrell, G. H., Collins
Mhoon, W. L. (col.) Jackson
Miller, C. C., Meridian
*Miller, Leighton S., Clarksdale
Miller, J. Wesley, Rolling Fork
Miller, Raymond W., Jackson
Miller, W. B., Clarksdale
Mims, S. C., Jr., Grenada
*Minniece, Thos. Y., Meridian
Mirike, Don, Columbia
Mitchell, A. M., Pontotoc
Mitchell, Chas. S., Tupelo
Mitchell, Ely B., Corinth
Mitchell, George T., Tupelo
Mitchell, Guy W., Tupelo
*Mitchell, Guy Wm. Jr., Tupelo
*Mitchell, Joe B., Corinth
Mitchell, W. M., Grenada
*Mitchell, Wm. P., Tupelo
*Mize, Joseph S., Forest
Mize, Sidney C., Gulfport
Mize, Webb, Gulfport
Monaghan, Noel, Tupelo
Montgomery, Gerald J., Greenwood
Montgomery, Goode, Jr., Laurel
Montgomery, M. B., Yazoo City
Montgomery, V. B., Belzoni
*Montgomery, Wm. G., Jr., Yazoo City
*Montjoy, W. H., Greenwood
*Moore, Alfred, Hattiesburg
Moore, Paul M., Calhoun City
*Moore, Wilburn D., Philadelphia
*Morehead, Yerger, Greenwood
Morgan, C. E., Kosciusko
*Morgan, Joe P., Flora
Morris, F. M., Hattiesburg
Morse, J. M., Poplarville
Morse, Stanford E., Gulfport
Morse, W. E., Jackson
Moseley, Niles, Jackson
Moss, O. F., Lucedale
*Mounger, Breed O., Tylertown
Mounger, Henry, Columbia
Mounger, W. M., Jackson
Murphy, George H., Gulfport
Murphy, William S., Mobile, Ala., (G. M. & O. R. R. Co.)
Murray, Harry K., Vicksburg
Murray, J. C., Brandon
Murrell, George F., Gulfport
*Murry, W. V., Hattiesburg
Nason, R. H., Belzoni
Nason, Robert E., Ackerman
*Neal, George S. Jr., Jackson
*Neill, J. D., North Carrollton
Neill, W. C., North Carrollton
*Neilson, E. T., Lexington
Nelson, A. M., Jackson
*Nelson, Leonard E., Vicksburg
*Netterville, Robt. L., Wilkinson
Nettles, S. R., Meridian
*Nevels, Mrs. Alice P., Atlanta, Ga.
Neville, G. B., Meridian
*Neville, Wm. deB., Meridian
*Newcomb, Hugo, Jackson
*Newman, Prentiss, Jackson
Newman, W. R., Jr., Jackson
Newton, D. P., Birmingham, Ala.
*Newton, Robert S., Wiggins
Nichols, R. L., Forest
Nichols, W. B., Grenada
Nix, Charles, Mobile, Ala. (Ala. Dry Dock & Shipbuilding Co.)
Noble, J. F., Brookhaven
Nobles, Roy P., Laurel
North, L. G., Belzoni
Nunnelly, Thos B., Bay Springs

*Armed Forces

*Nunnery, Herbert, Jackson
Oates, O. M., Bay Springs
Odom, H. T., Greenwood
Ogden, J. N., Mobile, Ala. (G. M. & O. R. R. Co.)
O'Mara, Junior, Jackson
O'Neill, John J., Vicksburg
*Overstreet, Webb, Holly Springs
Owens, H. S., Jackson
Pacific, Larry A., Bangor, Fla.
Pack, Samuel V., Laurel
Paine, Tom F., Aberdeen
Palmer, Merle F., Pontotoc
Palmes, G. V., Washington, D. C. (3345 Dept. of Justice Bldg.)
Parker, Elliott, Houston
Parker, H. H., Poplarville
Parker, James E., Meridian
*Parker, Percy F., Canton
Parker, Urithon B., Wiggins
Patterson, Albert T., Calhoun City
Patterson, C. F., Natchez
Patterson, E. B., Monticello
*Patterson, James N., Monticello
*Patterson, Joe T., Calhoun City
*Patton, Fred B., Oxford
Patton, Wright, Jackson
Patty, Jack S., Shaw
*Payne, William, Greenville
Pegram, T. E., Ripley
Pegram, T. E. Jr., Ripley
*Penny, John Lamar, Pontotoc
Perry, Marshall, Grenada
Perry, Robert S., Yazoo City
*Peteet, Porter, Greenwood
Petterson, M. J., Laurel
*Petty, R. J., Greenwood
*Peyton, F. Lewis, Jackson
*Phillips, Chas W., Baton Rouge
Phillips, John A., Macon
Phillips, O. W., Jackson
Phillips, Robert P., Brookhaven
Pierce, M. F., Greenwood
Pierce, W. W., Jackson
*Pigford, Howard R., Russell
Pinnix, James A., Amory
Pittman, Claude F., Hattiesburg
*Pittman, Claude F. Jr., Hattiesburg
Pittman, Homer, Hattiesburg
*Poitevent, Schuyler, Jr., Ocean Springs
Pollard, Chas. A., Greenwood
Pollard, E. J., Hernando
Pollard, R. V., Greenwood
Powell, Robert H., Canton
*Powell, Robert H. Jr., Canton
*Preston, John Basil, Glasgow, Ky.
Pressler, H. P., Jr., Hattiesburg
Price, Murray, Jackson
Price, J. H., Magnolia
Price, J. H. Jr., Magnolia
Price, James W., Jackson
*Price, Kenneth, Jr., McComb
Price, Kenneth, McComb
Price, Maurice, Jackson
Price, Zelma Wells, Greenville
Price, Mrs. Zelma W., Greenville
Pringle, Victor B., Biloxi
Prisock, John, Philadelphia
Prisock, Neal, Louisville
*Provine, B. B., Jr., Greenwood
Prude, J. O., Jr., Amory
*Pullen, Robert LaFoy, Aberdeen
Purvis, Zulah Mayo, Washington, D. C. (2101 N. W. Ave., N. W.)
Puryear, L. P., Senatobia
Putnam, John M., Jackson
*Pyle, L. A., New Albany
*Pyles, Dixon, Jackson
Quin, Billy H., Vicksburg
Quinn, David M., Jr., Indianola
Quinn, John E., Jackson
Quinn, Percy, Jackson
Quinn, O. B. III, Jackson
Rankin, John E., Tupelo (Washington, D. C.)
Raphael, Eugene J., Greenville
Ratliff, P. D., Raymond
Rawls, H. C., Columbia
Ray, Bob, Jackson
Ray, Tip, Canton
Rayburn, Kendall G., Pontotoc
Redmond, S. D., Jackson
Reed, W. C., Jr., Jackson
Reeves, R. B., McComb
Reich, Frank L., Louisville
Rhodes, John Sivley, Jackson
Rice, Greek L., Jackson
*Rice, Greek P., Clarksdale
*Ricketts, Barron G., Jackson
Riddell, J. A., Meridian
Riddell, Tally D., Jackson
Ridgeway, C. R., Jr., Jackson
Rinehard, J. F., Scooba
Ringold, Mae S., Winona
*Ringold, Rupert, Winona
Ritchey, G. P., Indianola
Roach, J. Gordon, McComb
Roberds, W. G., Jackson
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GENERAL INDEX

TITLE INDEX TO LEADING ARTICLES

		Page
Authority of Congress to Modify and Extend Corporate Charters granted by the State	*R. V. Fletcher*	1
Code-Making in Mississippi	*Edwin Stacey Oakes*	191
Common Law Marriage in Mississippi	*Larry A. Pacific*	40
Continuances in Mississippi	*Vardaman S. Dunn*	147
Does the President Still Have Amnestying Power?	*William A. Russ, Jr.*	127
Hocus-Pocus Legal Procedure—A Need for Reform	*O. B. Triplett, Jr.*	9
How the Army Transforms Lawyers into Judge Advocates	*A. B. Butts*	21
Privileged Communications Statute—Sword and Shield	*Hubert S. Lipscomb*	181
Protection of the Accused's Rights in Courts-Martial	*Walter P. Armstrong, Jr.*	175
Review of Mississippi Cases on Homestead Law, A	*M. B. Montgomery*	249
Right of Surety Upon Default of Principal to Contract Price Against Right of the United States for Social Security, Income and Other Taxes	*E. Kemp Cathcart*	29
Senator Pat Harrison: A Personality Sketch	*George C. Osborn*	240
Should Bureaus Be Substituted for Our Probate Courts?	*Gibson B. Witherspoon*	198
Unconstitutional Legislation in Mississippi	*Huey B. Howerton, Sr.*	88, 203
What is the Lawyer Doing in this War?	*Forrest Cooper*	142
What Should be the Function of the States in Our System of Government?	*Urban R. Miller*	69
Why Not a Struck Jury?	*Julian C. Wilson*	36

AUTHOR INDEX TO LEADING ARTICLES

ARMSTRONG, WALTER P., Jr., Protection of the Accused's Rights in Courts-Martial	175
BUTTS, A. B., How the Army Transforms Lawyers into Judge Advocates	21
CATHCART, E. KEMP, Right of Surety Upon Default of Principal to Contract Price Against Right of the United States for Social Security, Income and Other Taxes	29
COOPER, FORREST, What is the Lawyer Doing in this War?	142
DUNN, VARDAMAN S., Continuances in Mississippi	147
FLETCHER, R. V., Authority of Congress to Modify and Extend Corporate Charters Granted by the State	1
HOWERTON, HUEY B., Sr., Unconstitutional Legislation in Mississippi	88, 203
LIPSCOMB, HUBERT S., Privileged Communications Statute—Sword and Shield	181
MILLER, URBAN R., What Should Be the Function of the States in Our System of Government?	69
MONTGOMERY, M. B., A Review of Mississippi Cases on Homestead Law	249
OAKES, EDWIN STACEY, Code-Making in Mississippi	191
OSBORN, GEORGE S., Senator Pat Harrison: A Personality Sketch	240
PACIFIC, LARRY A., Common Law Marriage in Mississippi	40
RUSS, WILLIAM A., Jr., Does the President Still Have Amnestying Power?	127
TRIPLETT, O. B., Jr., Hocús-Pocus Legal Procedure—A Need for Reform	9

WILSON, JULIAN C., Why Not a Struck Jury? 36
WITHERSPOON, GIBSON B., Should Bureaus Be Substituted for Our Probate Courts? 198

NOTES

Business Entries in Mississippi 266
The Care and Custody of Children in Mississippi 278
Tort Liability for Failure to Assist Others in Peril 379

BOOK REVIEWS

Federal Rules of Criminal Procedure: Report of the Advisory Committee on Rules of Criminal Procedure Appointed by the Supreme Court of the United States ..... *J. Hollis Brown* 376
Lawful Action of State Military Forces. By Edmund R. Beckwith, James G. Holland, George W. Bacon, and Joseph W. McGovern ..... *A. B. Butts* 264

TABLE OF CASES

Adams v. Adams ... 58
Barner v. Rule ... 269
Bookout v. Shannon ... 268
California v. Central Pacific Ry. ... 4
Cherokee Nation v. Southern Kansas Ry. ... 5
Chicago, St. L., & N. O. Ry. v. Provine ... 272
Cochrane and Murdock v. Kitchens et al ... 95, 100
D'Antonio v. State ... 63
Davis, Director General of Railroads v. Elzey ... 183
Dickerson v. Brown ... 47 *et seq.*
Dixie Greyhound Lines v. Matthews 187
Doe v. Turford ... 287
Duncan v. Duncan ... 282, 286
Floyd v. Calvert ... 57
Gibbons v. Ogden ... 71, 83
Gray v. Gray ... 291
Hargroves v. Thompson ... 42, 48
Hauenstein v. Gillespie ... 274
Hayes v. Morgan ... 284
Henderson v. Cargill ... 49, 63
Hiatt v. United States ... 6
Hibette v. Baines ... 281, 287
Howard v. Kelly ... 61 *et seq.*
Hunt v. Hunt ... 52 *et seq.*
Hunter v. Hunter ... 187
Johns v. Johns ... 285
Jourdan v. Jourdan ... 63
Keeton v. State ... 185
Kinard v. State ... 57
Knote v. United States ... 128
Latinette v. City of St. Louis ... 6
McAdams v. McFerron ... 287
McCaw v. Turner et al ... 183
McCulloch v. Maryland ... 13, 71
Mercantile Trust Co. v. Texas & Pacific Ry. ... 2
Metropolitan Life Insurance Co. v. Reinhart ... 275
Moody v. Roberts ... 274
New York, ex rel. Brixton Corp. v. United States ... 7
Olivari v. Clark ... 43, 59, 64
O'Neal v. O'Neal ... 285
Rawlings v. Rawlings ... 291
Regina v. Millis ... 41
Rundle v. Pegram ... 57, 63
Runnels v. State ... 88, 204
Russell v. Russell ... 292
Sibbach v. Wilson & Co. ... 188
Sims v. Sims ... 44 *et seq.*
Sinclair v. State ... 113
Smith v. State ... 36
Southern Pacific Ry. v. United States ... 5
Sovereign Camp, Woodmen of the World v. Farmer ... 186
Stevenson's Heirs v. McReary ... 48
Sykes v. Sykes ... 44, 58
United States v. Hall ... 200
Walker v. Matthews ... 61
Walters v. Walters ... 293
Zeigler v. Zeigler ... 52, 55

TABLE OF STATUTES

Miss. Code Ann. (1930)

Sec. 521 ... 12
Sec. 533 ... 14
Sec. 576 ... 149, 157, 158
Sec. 861 ... 289
Sec. 1263 ... 148
Sec. 1279 ... 148
Sec. 1410 ... 261
Sec. 1421 ... 278
Sec. 1536 ... 181 *et seq.*
Sec. 1654 ... 257
Sec. 1765 ... 249
Sec. 1864 ... 278
Sec. 2362 ... 46
Sec. 2363 ... 50 *et seq.*
Sec. 2994 ... 11
Secs. 4705-4763 ... 106
Secs. 7328-7354 ... 198

(Note. The Index for Volume XVI of the Journal will appear in the next issue, Number 1 of Volume XVII.)

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OF 1945

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